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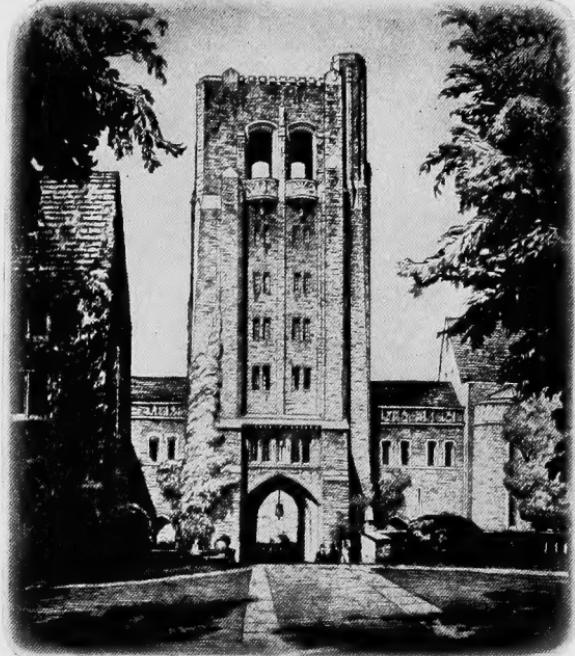
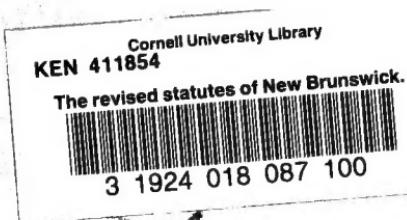
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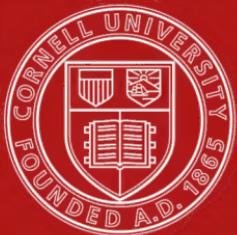
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THE
REVISED STATUTES
OF
NEW BRUNSWICK.



VOLUME I.

PRINTED UNDER THE AUTHORITY OF AN ACT OF THE LEGISLATURE.



FREDERICTON, N.B.

J. SIMPSON, PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

1854.

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FREDERICTON, NEW BRUNSWICK:

PRINTED BY JOHN SIMPSON, AT THE ROYAL GAZETTE OFFICE,
KING STREET.

P R E F A C E.

Having been appointed to superintend the publication of the Provincial Statutes, I very soon found it necessary to determine on publishing this Volume, containing the Revised Statutes only, leaving those passed contemporaneously at the last Session, and any which remained unrepealed, to form two other Volumes; one of Public, the other of Private and Local Acts.

To have included in this Volume the Public unrepealed Acts, and those of the last Session, would have marred the uniformity of its appearance,—greatly increased its bulk, by adding about fifty Acts, and some of them very long,—protracted its issue, already greatly delayed,—and have rendered the Volume, to whatever extent the Law Amendments may hereafter pass, useless.

By making a second Volume of these Public Acts, and publishing a much smaller number than of the Revised Statutes, it may be considered as circulating for present convenience, until the publication of a second Codified Volume of uniform appearance with the first shall be ordered, which may readily be effected on the Legislature passing the remainder of the Law Amendments, they being already codified.

These Amendments, thus codified, were reported by the Commissioners as forming a portion of "Part the Third," relating to Courts; but the Legislature being unable to attend to them all at the last Session, and those with reference to the Court of Chancery having passed subsequently to the Revised Statutes, that part of this Volume will unavoidably be short and incomplete. The second and third Reports, however, of the Law Commissioners, will be found in the second Volume, as bearing more immediately on that particular portion of the Statutes.

It may be necessary to remind the unprofessional reader of this Volume, that in the two Chapters "Of Terms, &c." and "Repeal of Statutes," prepared for the purpose of avoiding incessant repetitions, will be found the key to many seeming

omissions in this revision, as in the use of the words "sworn," "on oath," "affidavit," which are unaccompanied by the customary authority to administer the oath, or the penalty in case of false swearing ; but in the Chapters alluded to, these and similar expressions have their full effect by a general explanation of their meaning.

It has already been explained in the Royal Gazette why this Volume did not make its appearance when the Act came in force. The two subsequent Volumes will be issued as quickly as they can be printed ; and it is satisfactory to me to be able to observe that the public inconvenience, so deeply to be regretted in the delay of publishing this Volume, cannot extend to the other two, as all the Acts to be therein included are already in print.

W. B. KINNEAR.

8th September, 1854.

AN ACT FOR THE FURTHER AMENDMENT OF THE LAW AND THE
BETTER ADVANCEMENT OF JUSTICE.

WHEREAS it would greatly facilitate the administration of justice in this Province, and reduce the expense thereof, if the Acts of Assembly were revised and properly arranged, and the proceedings in suits at law and in equity abridged and simplified ;

Be it therefore enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows :—

1. The Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and consent of the Executive Council, is authorized and empowered, by Warrant under his hand and seal, to appoint three or more fit persons, not to exceed five in the whole, to be Commissioners, as well to consolidate, simplify in their language, revise, and arrange in one uniform code, the Acts of Assembly in this Province, incorporating in such revision and arrangement all such alterations and amendments as the said Commissioners shall deem necessary, as to report upon the practice and proceedings in the Courts of Law and Equity, and to suggest such alterations therein as may appear to the said Commissioners, or a majority of them, best adapted to lessen expense and advance justice, and especially to take into consideration the Law of Evidence as it at present exists in this Province, and the propriety of altering the same, and to report the result of their doings to the Lieutenant Governor or Administrator of the Government for the time being, in separate Reports, embracing in one Report the revision and codification of the Acts of Assembly, and in the other the practice and proceedings in the Courts of Law and Equity, and the other matters by this Act directed to be reported upon, to be by him laid before both Houses of the Legislature immediately after the then next meeting thereof, for their consideration and action, with a detailed account of the expenses thereof.

2. It shall be lawful for the said Commissioners so to be appointed, or the major part of them, for the purpose of procuring information relative to any of the matters aforesaid, to call before them any person or persons, and to require the production from any public office or department of any books, documents, or papers connected with the proceedings of any Court where actions or suits at law or in equity are usually brought, as may be necessary ; and the said Commissioners, or a majority of them, are hereby empowered to examine on oath or otherwise, according to the discretion of the said Commissioners (which oath the said Commissioners or any one of them are hereby authorized to administer), any person or persons, relating to such practice and proceedings, and touching all other matters to be inquired into under the provisions of this Act ; and all such persons are hereby required to attend the said Commissioners from time to time and at such times and places as they or a majority of them shall appoint, on receiving due notice thereof, and on being required so to do.

3. The said Commissioners are hereby authorized to employ such clerks and assistants as may be necessary for the performance of the duties imposed upon them by this Act.

4. This Act shall continue and be in force until the first day of April which will be in the year of our Lord one thousand eight hundred and fifty four, and no longer.

FIRST REPORT OF THE COMMISSIONERS.

*To His Excellency Sir Edmund Walker Head, Baronet, Lieutenant Governor
and Commander in Chief of the Province of New Brunswick, &c. &c. &c.*

MAY IT PLEASE YOUR EXCELLENCY,

Having had the honor of receiving from Your Excellency a Commission directing us to carry out the objects of the Act passed at the last Session of the Legislature, relative to the revision of the Provincial Statutes and the amendment of Law proceedings, we beg leave to report, that shortly after receiving the Commission, we entered on its duties by holding our first meeting at Fredericton, to consider the best mode of accomplishing the highly important objects contemplated by the Legislature.

We were required—"As well to consolidate, simplify, "revise, and arrange in one uniform code the Acts of Assembly, incorporating therein all such alterations and amendments as we should deem necessary, as to report on the "procedure of the Courts of Law and Equity, and to suggest "such alterations as might appear to us, or a majority of us, "best adapted to lessen the expense and advance justice; and "especially to take into consideration the Law of Evidence as "now existing in the Province, and the propriety of altering "the same; and to report separately thereon, the revision in "one Report, and the alterations in Law proceedings in "another."

These two departments presented a wide field of investigation, and although we deemed it quite impracticable to be prepared with both Reports at the present Session, we resolved to spare no pains in the codification of all the Statutes which could safely be touched, and at the same time to collect information on the more difficult subject of the improvement of Common Law and Equity procedure.

All the Acts of Assembly were examined and compared with great care and labour, and every Act repealed, amended, or in any way modified, noted in the margin, so that the whole could

be more readily referred to, and the Law upon any subject easily distinguished ; and an alphabetical list of the unrepealed Laws was made by our Secretary to prevent any omission.

During the summer we prepared various suggestions for improving the proceedings at Law and in Equity ; and in the autumn procured the Imperial Statutes passed at the preceding Session, which enacted almost all the improvements proposed by the Law Commissioners in England. These, with the novel and very interesting change in the Law of Evidence, permitting parties to give evidence for themselves, first adopted in the English County Courts and afterwards in the superior tribunals, became the subject of careful deliberation at several meetings, and lead to the promulgation of the printed questions on all these points, which have been widely circulated throughout the Province, and to which at present a very limited number of answers has been returned.

We deemed this course of proceeding necessary not only as regarded the parties who might be affected by any changes eventually to be made, but that our own conclusions might be based on the most ample information, being convinced that reform in any department of human affairs, calmly and deliberately weighed, will stand the test of experience, whilst hasty legislation will be productive of nothing but disappointment.

Although thus compelled to postpone the consideration of the various questions of Law reform, we think it advisable to add a few words on that head, before passing to the revision of the Statutes.

We are already prepared to assert the necessity of extensive changes in the whole Law procedure of this Province. We think the practice of the Law must for the future be founded more on the principles of common sense than on ancient precedent ; that it is time to abolish a system by which fictions seem too often to have been considered unavoidable in order that truth and justice might be reached ; that the old maxim, "*In fictione juris subsistit equitas*," whence have sprung all the subtleties of the action of ejectment, and many other modes of procedure, can no longer be considered the perfection of wisdom. We do not think the man who seeks justice should be driven from one form of action or Court to another, or that a Judge of any Court should ever be so painfully situated as

to declare a party to have the right, but consistently with precedent find it impossible to afford the remedy.

We admit the present practice to be a science in which the rules of logic are applied with great exactness, and to which, after years of toil in mastering it, we are naturally attached ; but we are willing to sacrifice our predilections in favour of special pleading, and all the learning of pleas, demurrers, and new assignments, repleaders, and judgments *non obstante veredicto*, for greater simplicity and certainty in the exposition of facts, and less delay and expense in the attainment of justice.

With this Report we submit to Your Excellency, for the purpose of being laid before the Legislature, the Public Acts we have codified. It will be seen that we have compressed the language of the Acts in such a manner as to present them in one fourth, or often in one sixth, the bulk of their former size. They have not merely been stript of the verbiage of endless expletives and repetitions, but the meaning of the Law has been frequently cast into an entirely new form, presenting, as we hope, at the same time, the sense intended to be conveyed. For example, the Marriage Acts, which are of such vast social importance, and the administration of which is in the hands of persons who have not access to the various books through which they are scattered, are very difficult to comprehend. The Chapter on that subject in our codification contains only eighteen sections, and a further improvement is recommended which will reduce it to fifteen. These are gathered from sixteen different Acts, extending from the organization of the Province to the last Session of the Legislature. The first section embraces the provisions of six of these Acts or parts thereof; the second of four ; and the third of six ; so that the first three sections are culled from fourteen different sections of Acts, and in some cases a whole Act.

The law subjecting real estate to the payment of debts, and directing the Sheriff in his proceedings thereon, is another instance. It was difficult for a Sheriff to know the exact meaning of the old law ; this is now made plain and simple ; several improvements in the proceedings are recommended, and various ambiguities removed. The extent of the lien of judgments on real estate, and the mode of dealing with them, hitherto so ambiguous and difficult to be understood, have been made intelligible.

Much repetition has also been saved by a very enlarged Chapter of explanations of general terms, applying to all the Chapters of the Act. As a familiar illustration of this improvement, whenever any thing was directed to be done by the head of the Government, there was a continual recurrence of the terms "His Excellency the Lieutenant Governor and Commander in Chief of the Province, or Administrator of the Government for the time being, by and with the advice and consent of the Executive Council." The words "Governor in Council," wherever they occur, will now, by the Chapter of explanations, signify all that is intended by that more lengthy form of expression.

The whole of the Acts codified make but one Act; the divisions, framed on the Massachusetts model, will be found simple and perspicuous. The "Parts" shew the division between public and private rights, criminal, and other general heads. We propose to arrange them in the following order.

The Law prescribing the political division of the Province into Counties and Parishes will form a first Chapter by itself, defining the territory over which the jurisdiction of the Province extends, and the area affected by the legislation of the subsequent Chapters. Part the first will, with this Chapter, embrace all matters relating to the Legislature, the Revenue, the Post Office, Highways, and other matters affecting the public. The second, the acquisition and transmission of property. The third, the several Courts of Law and modes of proceeding in special cases, such as absconding, absent, and insolvent debtors. The last part will comprehend the criminal law, and the administration of criminal justice. For the reasons already given, the third part, relating to Courts of Law, must necessarily be limited in extent, although whatever we conceived might not probably require revision has been inserted.

The "Titles" take a particular subject of a "Part," and these again, for method and convenience of arrangement, are divided into Chapters, and the Chapters into Sections, with the contents of each Section at the head of the Chapters. There will also be a general Index at the end of the Volume, to be prepared when it is to be printed for publication.

There is nothing in this revision which has not undergone a thorough sifting by at least three of our number, with the

able assistance of our Secretary; and if in any instance we have mistaken the spirit of the Laws, or omissions may be discovered, we have laboured too strenuously to shrink from the assertion that the defects can only have arisen from the multitude and variety of the subjects embraced in the mass of Statutes codified.

That portion of them which we have purposely omitted from the first Volume relates principally to private rights and corporations, which will require to be presented in a second Volume, very much as they have already been printed.

The Acts authorizing Justices of the Peace to recover small debts, and the Surrogate Law, although connected with law reform, we thought it advisable to codify at once, since whatever alterations were deemed necessary, or could be made in the present circumstances of the country, have been attended to in this revision. In the Chapter "Of the jurisdiction of Justices of the Peace in civil suits," we recommend that an appeal should no longer be allowed. We are unable to see why the verdict of twelve men in a case amounting to twenty pounds should be final, and yet when the contest is only for five pounds, and the verdict by three, that the latter should not also be conclusive. Should the Legislature, however, entertain a different opinion, the review will be found, as we have framed it, more expeditious and less expensive than the present mode.

We would especially call attention to the action of replevin, some new provisions for which will be found in the law relating to landlord and tenant. It has been a subject of doubt whether that action would lie where goods were merely wrongfully detained. That doubt we have now removed by allowing the writ to issue in such case as well as for a wrongful taking. The settlement of this point will not only enable a party to recover his own goods, however kept from him, but prevent the defendant from obtaining a nonsuit, or a verdict, and recovering costs, merely because the plaintiff has failed in proving a taking, at the very time he has succeeded in establishing the fact of the defendant having wrongfully *withheld his* property. We have also made the first writ issued answer as well for replevying the goods as for requiring the appearance of the party, which at present is only accomplished by a second writ if he does not appear on the first.—To remedy

another defect in the present mode of proceeding as to the change of possession which frequently happens on issuing the writ, by which the Sheriff is unable to seize the property, we require the Sheriff to take the goods from the possession of any one who may have them, who thereupon becomes the defendant. We also allow a third party to claim before the Sheriff and defend if necessary, and should a verdict be given on such claim against the plaintiff we think he ought not to be driven, according to the present expensive mode of proceeding, to another action if that verdict be unjust, but should be permitted to continue the action and recover the value of the property restored to the claimant, with damages and costs, if on a full trial before a higher tribunal he shall be found entitled.

We have also made several important amendments in the Law relating to Corporations, and introduced the modern principle of enabling them to make contracts without their common seal.

We have added the greater part of a Chapter to the Law relating to Apprentices. As the Law now stands it appears to assume that certain preliminary conditions are known; we have incorporated these provisions in the Chapter codified.

The Law respecting the limitation of personal actions was very ambiguous and unsatisfactory, the time for enforcing various rights known only to lawyers, and its provisions contained in several old Acts of the Imperial Parliament passed in the Reigns of King James the First and Queen Anne. We have compressed the whole into a single Chapter, intelligible to any mind of ordinary comprehension, and have introduced several new provisions consistent with the law and the state of the Country.

In the Chapter relating to absconding debtors, and various others of a similar nature, we have prepared the necessary forms of proceeding, and included them in our codification. This is a matter of practical utility, and will be fully appreciated by every person called upon to administer these branches of the law.

We apprehend these improvements, with others in different parts of the revised code, will be found of great practical value, both as regards simplicity of proceeding and expense. Wherever any important alteration is made, it will be found

marked in the margin with the word "New," or with such remarks as we thought proper to add to direct attention, or explain the object of the amendment. It is also to be noted, that it has not been the least of our labours to make the arrangement of the several sections more in harmony with the order of time when the things required are expected to be performed.

A few Acts partly finished will shortly follow this Report, and will be ready whenever required by the Legislature to complete our first Volume.

When we suggest to Your Excellency, that the Commissioners appointed by the State of Massachusetts were engaged three years before they completed their Report of the Revised Statutes ; that in Maine and Massachusetts the Report was considered by a joint Committee of both Branches of the Legislature for eighty six days in one, and fifty one in the other ; and in both an extra Session of the Legislature, called for that purpose, was solely occupied therewith, you can easily believe that it required an extraordinary amount of labour to complete the codification this Session ; but no sacrifice of time or labour on our part has been spared to effect an object so beneficial, which the Country so ardently desires, and without which it will be impossible for any large class of persons to understand, far less appreciate, the improvement that may be hereafter made in the law proceedings and the administration of justice generally.

The avocations of the Attorney General have been so numerous and pressing that we have often been obliged to proceed without the benefit of his knowledge and experience ; and the Surveyor General, when relieved from the duties of his office, has occasionally aided us with his practical knowledge.

We desire to record with great satisfaction, that we have received from our Secretary, W. H. Needham, Esquire, the most able and valuable assistance. His exertions have not been confined to mere writing or copying—although he has accomplished much in this way, and we believe given up most of his time to it—but his assistance in the art of condensing has materially tended to the accomplishment of so much of our labours.

After all our efforts, the indulgence of Your Excellency and the Legislature will have to be extended to defects, to which all human exertions are liable ; and with every confidence that a candid consideration will be given wherever such may appear, we have the honor to subscribe ourselves,

Your Excellency's most obedient servants,

W. B. KINNEAR, *Solicitor General.*

J. W. CHANDLER.

CHARLES FISHER.

Fredericton, 22nd March, 1853.

AN ACT TO REGULATE THE PUBLICATION OF THE REVISED STATUTES,
AND OTHER ACTS OF ASSEMBLY.

BE it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows :—

1. The Revised Statutes, together with a Table of Contents in front, and an Index, shall form the first Volume of the Acts of Assembly.
2. If any mistake appear in the arrangement of the Parts, Titles, Chapters, or Sections of the Revised Statutes, as they have passed the Legislature, the same may be corrected before printing.
3. The Public Acts of the present Session, together with those remaining unrepealed, may either be introduced into the Volume of the Codified Laws passed the present Session, or form a second Volume, as the person or persons that may be appointed to superintend the printing and publication thereof, may deem most convenient ; and the Local and Private Acts shall form another and distinct Volume ; in both cases classifying, but not altering any part thereof, except the formal enacting words, “ Be it enacted,” and words of a similar import, omitting any repealed Sections, and supplying the headings of contents to each Act, Title, or Chapter, as the case may be, a Table of Contents in front, and an Index.

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Province of New Brunswick.

ANNO DECIMO SEPTIMO VICTORIÆ REGINÆ.

CHAPTER THE FIRST.

AN ACT

TO REVISE AND CONSOLIDATE THE PUBLIC STATUTES OF
NEW BRUNSWICK.

Passed 1st May 1854.

BE it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

PART FIRST.

OF PUBLIC RIGHTS.

TITLE I.

OF THE DIVISION OF THE PROVINCE INTO COUNTIES AND PARISHES.

CHAPTER 1.

Section.	COUNTIES.	Section.
1. Charlotte.	10. Gloucester.	
2. City and County of Saint John.	11. Northumberland.	
3. King's.	12. Kent.	
4. Queen's.	13. Westmorland.	
5. Sunbury.	14. Albert.	
6. York.	15. Division of Parishes.	
7. Carleton.	16. Bearing of lines.	
8. Victoria.	17. Shire Towns.	
9. Restigouche.		

The Province of New Brunswick shall be divided into the several Counties hereinafter named, which shall be bounded as follows:—

1. CHARLOTTE—South by the Bay of Fundy, west by the River Saint Croix and the western shore of the Bay of Passamaquoddy, east by the line running true north thirty miles from Point Lepreau, as surveyed by Deputies Wilkinson and Mahood in the years of our Lord one thousand eight hundred and thirty eight and one thousand eight hundred and forty five, and north by the line running true west from the termination of the last mentioned line, as surveyed by Deputy Mahood in the year of our Lord one thousand eight hundred and forty five, including all the Islands adjacent thereto, and the Island of Grand Manan and the Islands adjacent to it.

2. The City and County of SAINT JOHN—South by the Bay of Fundy, west by Charlotte, north by the line run north eighty three degrees and thirty minutes east from the southernmost point of Kennebeccasis Island by Deputies Scully and Palmer in the years of our Lord one thousand eight hundred and thirty three and one thousand eight hundred and forty one, and the westerly prolongation of said line to Charlotte, east by the line run north by Deputy Stiles in the year of our Lord one thousand eight hundred and thirty eight, from a birch tree on the

shore of the Bay of Fundy, thirty chains east from the mouth of Goose River, including all the Islands in the Bay of Fundy adjacent thereto.

3. KING'S—South by the City and County of Saint John, west by Charlotte, east by the prolongation of the eastern boundary of Saint John, and north by a line run north, sixty two degrees and thirty four minutes east, and south sixty two degrees and thirty four minutes west, by Deputy Wilkinson from the lower end of Spoon Island, in the year of our Lord one thousand eight hundred and thirty eight, and its southerly prolongation as surveyed by Deputy Whipple in the year of our Lord one thousand eight hundred and fifty three.

4. QUEEN'S—Southeasterly by King's, northeasterly by the prolongation of the eastern boundary of King's, and the line run north fifty six degrees and thirty minutes west by Deputy Price in the year of our Lord one thousand eight hundred and forty one, from the northwest angle of Westmorland, southwesterly by Charlotte, and northwesterly by the line run from the lower line of lot numbered one (Conrad Stinick) southwesterly by Deputy Wilkinson in the year of our Lord one thousand eight hundred and thirty nine, and Deputy O'Connor in the year of our Lord one thousand eight hundred and forty three, and northeasterly by Deputy Munroe in the year of our Lord one thousand eight hundred and forty six.

5. SUNBURY—Southeasterly by Queen's, south by Charlotte, north by the line run north fifty six degrees and thirty minutes west by Deputy Price in the year of our Lord one thousand eight hundred and forty one from the northwest angle of Westmorland, and northwesterly by the line run north forty seven degrees and forty five minutes east, and south forty seven degrees and forty five minutes west by Deputy Jouett in the year of our Lord one thousand eight hundred and forty six, from the lower boundary of the grant to Daniel Fukes and others, and its prolongation northeasterly.

6. YORK—Southeasterly by Sunbury, southwesterly by Charlotte and the State of Maine, northeasterly by the line run north fifty six degrees and thirty minutes west by Deputy Price in the year of our Lord one thousand eight hundred and forty one, from the northwest angle of Westmorland, and the line run north six degrees and forty minutes west by Deputy Scully.

in the year of our Lord one thousand eight hundred and thirty two from the South West Miramichi River near Boiestown, and its southerly and northerly prolongations, and northwesterly by the line run true east by Deputy Jouett in the year of our Lord one thousand eight hundred and forty seven from the monument by Eel River, and the line run north forty seven degrees and twenty minutes east by Deputy Jouett in the year of our Lord one thousand eight hundred and forty seven from the River Saint John, at the upper line of the lower half of lot numbered twenty eight granted to Matthew Phillips, and its northeasterly prolongation.

7. CARLETON—Southerly and easterly by York, westerly by the State of Maine, and northerly by the River De Chute and a line running true east from the mouth thereof.

8. VICTORIA—Southerly and westerly by Carleton and the State of Maine, northerly by the Province of Canada, and easterly by York and the northerly prolongation of the line run north six degrees and forty minutes west by Deputy Scully in the year of our Lord one thousand eight hundred and thirty two from the South West Miramichi River near Boiestown, until it intersects the westerly prolongation of the south line of lot numbered one in the grant to Simon Arseneau and associates, near the Little Nipisiguit, thence by a line running north forty five degrees west until it strikes the Province of Canada.

9. RESTIGOUCHE—Westerly by Victoria, northerly by the Province of Canada and the Bay of Chaleur, easterly by the line run true south by Deputy Carruthers in the year of our Lord one thousand eight hundred and forty eight from the Bay of Chaleur, near the mouth of Belledune River, and its southerly prolongation, south by the westerly prolongation of the south line of lot numbered one in the grant to Simon Arseneau and associates, near the Little Nipisiguit, including all the Islands adjacent thereto.

10. GLOUCESTER—Northerly by the Bay of Chaleur, easterly by the Gulf of Saint Lawrence, southerly and westerly by the line run north eighty eight degrees west by Deputy Davidson in the year of our Lord one thousand eight hundred and forty five, from the Gulf of Saint Lawrence, at the rear of the first division of lots in the Tracadie grant, until it strikes Portage River, thence north twenty two degrees west by the

magnet of the year of our Lord one thousand seven hundred and eighty four, to intersect the line of Restigouche, and thence along the southerly and easterly bounds thereof to the Bay of Chaleur, including Miscou and Shippagan and all the other adjacent Islands.

11. NORTHUMBERLAND—Northerly by Gloucester and Restigouche, west by Victoria and York, south by York and Sunbury and the line run from Point Escuminac south seventy degrees and forty five minutes west forty eight miles, thence south fifty one degrees west twenty three and one half miles, by Deputies Layton and Sadler in the years of our Lord one thousand eight hundred and forty two and one thousand eight hundred and forty five, and easterly by the Gulf of Saint Lawrence, including all the Islands adjacent thereto.

12. KENT—North by Northumberland, south by Queen's and the line run true west by Deputy Palmer in the year of our Lord one thousand eight hundred and forty one from the north end of Shediac Island, and east by the Gulf of Saint Lawrence, including all the Islands adjacent thereto.

13. WESTMORLAND—North by Kent and the Gulf of Saint Lawrence, west by King's and Queen's and the River Petitcodiac, south by Bay Verte, the Province of Nova Scotia, Cumberland Basin, the River Petitcodiac, and the line run south twenty degrees west nine miles, and west nine and one half miles, by Deputy Wilmot in the year of our Lord one thousand eight hundred and forty six, from near the mouth of Coverdale River, including Shediac and all the other adjacent Islands.

14. ALBERT—Westerly by King's and Saint John, northerly by Westmorland and Petitcodiac River, easterly by Petitcodiac River, and southerly by Chignecto Bay, including all the Islands adjacent thereto.

15. The said several Counties shall be divided into the several Parishes hereinafter named, which shall be bounded as follows:—

IN CHARLOTTE.

Saint Stephen—South by the River Saint Croix, east by the east line of the grant to Nehemiah Marks and others and the rear line of lots fronting on River Saint Croix above Oak Point, north by the north line of lot numbered fifty three (P.

Christie) and its prolongation, and the north line of lot numbered sixteen (Angus Rankin) and its westerly prolongation, westerly by west line of lot numbered sixty (R. M. Todd) and its prolongations.

Saint David—West by Saint Stephen and the west limits of the grant to Henry Goldsmith and others, north by the north limits of the above mentioned grant, east by the east line of the said grant and the rear of lots fronting on the east side of Oak Bay and its northerly prolongation, south by a part of the south line of the Cape Ann Association Grant, Oak Bay, and the rear of lots fronting on the River Saint Croix above Oak Point, including all the Islands in Oak Bay.

Saint James—South by Saint Stephen and Saint David, east by the northerly prolongation of the east line of Saint David, north by the County line, and west by the River Saint Croix.

Saint Andrews—North by Saint David, west by Saint David and the River Saint Croix, south by Passamaquoddy Bay, and east by a direct line from the south east angle of the grant to Henry Goldsmith and others, to the southwest angle of lot numbered twenty granted to F. Welch, including Chamcook and Saint Andrews Island.

Saint Patrick—West by Saint David, Saint James, and Saint Andrews, east by the west line of the grant to Phillip Bailley and others, and its northerly prolongation, north by the County line, and south by Passamaquoddy Bay, including all the Islands west of the prolongation of the east line within two miles of the shore.

Saint George—Westerly by Saint Patrick and the Bay of Passamaquoddy, north by the County line, east by the rear line of lot numbered three, granted to William Payne, and its prolongation northerly to the County line, and southerly to L'Etang River, south by L'Etang River and the Bay of Fundy, including all the Islands within two miles of the shore.

Pennfield—Westerly by Saint George and L'Etang River, north and east by the County line, and south by the Bay of Fundy, including the "Wolves" Islands and all other Islands within two miles of the shore.

Campo Bello—Being the Island so named, and its appurtenances.

West Isles—To consist of Deer Island and the lesser Islands

contiguous to it not included in the Parishes before mentioned.

Grand Manan—Being the Island so named, with its appurtenances.

IN SAINT JOHN.

The City of Saint John—By a line to commence and beginning near Fort Howe at Portland Point, at low water mark, and thence running a direct line to a small point or ledge of land at the Cansey by the old Saw Mill, thence east northeast until a direct line shall strike the Creek running through Hazen's Marsh, on the east side of the eastern District, thence along the course of the said Creek to its mouth, thence by a line running south nineteen degrees west into the Bay, until it meets a line running east from the south point of Partridge Island and along the said line to the said point, thence by a direct line to a point on the shore which is at the southeast extremity of a line running south forty two degrees east from the River Saint John to the Bay of Fundy, and terminating the Town Lots of the western District, thence along the said line north forty two degrees west to the River Saint John aforesaid, and continuing the said course across the said River until it meets the opposite shore, and thence along the north shore of the said River at low water mark, to Portland Point aforesaid.

Lancaster—All that part of the County which lies west of the City of Saint John and the western shore of the River Saint John.

Portland—West by the City of Saint John and the eastern shore of the River Saint John, north by the north line of the County, south by the eastern shore of the Harbour of Saint John and the limits of the City of Saint John, and east by a line running due south from the head of Portage Cove, so called, to the northwest branch of Marsh Creek, thence along the centre of the same until it comes opposite Black Point, thence at right angles easterly until it meets the eastern line of the Marsh Road, so called, thence southerly following the eastern line of the said Marsh Road and of the road which passes along the front of Walker Tisdale's stone cottage to the old Westmorland Road, thence south twenty degrees west until it strikes the Marsh Creek running through the flats, thence following the sail Creek to low water mark.

Simonds—All that part of the County west by Portland and east by the east boundary line of lot numbered one granted to Samuel Hugh, and the northerly prolongation thereof.

Saint Martins—All that part of the County lying to the eastward of Simonds.

IN KING'S.

Westfield—On the north, south, and west by the boundary lines of the County, and on the east by a line running north west from the mouth of Devil's Brook at Devil's Head, Long Reach, and south east to the rear of lots fronting on the north-east side of Kennebeccasis Bay, thence southwest to the north-east line of lot numbered twenty eight, (Dennis Coombes,) thence southeast to the County line, including Kennebeccasis Island.

Springfield—On the north by the County line, on the west by the upper or eastern line of Chaloner's lot numbered seven, and the northwest prolongation thereof, the line dividing lots numbered one and eighteen south of Bellisle Bay, and a part of the line dividing lots numbered fifteen and sixteen in the back Settlement, south by the designed road running through the back Settlement and the easterly prolongation thereof, to intersect a line running north from the mouth of Halfway Brook, and east by the continuation thereof north to the County line.

Kingston—On the north by Bellisle Bay and the Long Reach, on the west by Westfield, on the south and east by the Kennebeccasis Bay and River, until it meets the line dividing lots numbered twelve and thirteen in the Kingston Grant, thence along said line and the rear of said Grant to the line between lots numbered thirty three and thirty four therein, thence along the prolongation thereof and the boundary of the Parish of Springfield northerly to Bellisle Bay, including Long Island.

Sussex—West and south by a line running south from the mouth of Halfway Brook to the Westmorland road, thence south seventy six degrees east to the County line, thence along the same to the eastern extremity thereof, east by the County line, and north by the centre of the Kennebeccasis River, beginning at the Halfway Brook, thence upwards to the south angle of lot numbered twenty five (Jacob Snider), thence along

the east line of said lot to the rear thereof, thence north sixty six degrees east to the County line.

Studholm—North and east by the County lines, west by Springfield and the southerly prolongation of the east line thereof, and south by Sussex.

Norton—East by Sussex and Studholm, north by Kingston and Springfield, south by Kennebeccasis River and the centre of the old Westmorland road, and west by Kingston and the lower line of lot numbered fourteen (John Fritch) prolonged southerly.

Upham—North by Norton and Sussex, south by the County line, and west by the southerly prolongation of the lower line of the lot numbered fourteen, (John Fritch.)

Hampton—Westerly, northerly, and easterly by the Kennebeccasis Bay and River, the Parishes of Norton and Upham, and south by the County line, including Darling's Island.

Greenwich—North by the County line, west by Westfield, east by Springfield, and south by the Long Reach and Bellisle Bay, including the Islands in the Long Reach and mouth of Bellisle Bay.

IN QUEEN'S.

Petersville—Being all that part of the County southwest of a line beginning where the road from Jones' mill crosses the County line, thence along the same to the northwest line of lot numbered one (John Short), thence along the same to the northeast line of lot numbered five (Sylvanus Haviland), thence along the same and its prolongation to southeast line of lands granted to James Corbett, thence along the same to the line of the grant to Henry Appleby, thence along the same and its prolongation to the Gagetown road, thence along the same to northeast line of lot numbered twenty five (T. T. Hewlett), and thence along the same and its prolongation to the Sunbury County line.

Cambridge—Beginning on the eastern shore of the River Saint John, at the southeast angle of lot numbered sixteen, formerly granted to Isaac Gilbert, thence following the course of the lower or southern line of said lot numbered sixteen until it meets the waters of the Grand Lake, thence across the waters of the Grand Lake to the most westerly angle of the lot numbered two, at Mill Cove, granted to Vincent White,

thence southeasterly in a direct line to the southern angle of lot numbered twenty five on the Washademoac Lake, granted to Richard Samuel Clarke, thence by the waters of the Washademoac Lake and through the White Passage, so called, to the northern entrance of the said Washademoac Lake into the River Saint John, and thence following the shore of the River Saint John to the place of beginning.

Wickham—Southeast by the County line, west by the River Saint John, northwest by Cambridge, and northeast by the centre of the present great road leading from Washademoac to Bellisle, including the lower Musquash and Hog Islands.

Johnston—Southwest by Wickham and Cambridge, northwest by the prolongation of a line running north fifty four degrees east by the magnet of the year of our Lord one thousand seven hundred and eighty six from the west angle of the grant to Samuel Hughes, northeast by the east line of the grant to A. C. Starritt on New Canaan River and its prolongations, and southeast by the County line.

Brunswick—Southwest by Johnston, northwest by the northwest line of Johnston prolonged, northeast and southeast by the County lines.

Chipman—Northwest and northeast by the County lines, southeast by Brunswick and Johnston, southwest by the northeast line of lot numbered nine, Hardwood Ridge road, thence south forty five degrees east to Salmon Bay, thence in a direct line to Indian Point, thence direct to north angle of lot numbered eight (William Burk), thence along the east line of said lot and its prolongation to Johnston.

Waterborough—Southeast by Johnston, northeast by Chipman, southwest by Cambridge, and northwest by a line along the centre of Grand Lake.

Canning—Northeast by Chipman, northwest by the County line, southwest by the River Saint John, and southeast by Cambridge and Waterborough.

Gagetown—Northwest by the County line, southwest by Petersville, northeast by the River Saint John, southeast by the north line of lot numbered thirty seven (George Sweet), thence by a line running south fifty two degrees west, including Grimross Island.

Hampstead—Northwest by Gagetown, southwest by Peters-

ville, southeast by the County line, and northeast by the River Saint John, including Long Island, upper Musquash Island, and Spoon Island.

IN SUNBURY.

Blissville—Southeast and west by the County lines, northeast by a line running north sixty six degrees west, and south sixty six degrees east, from the south point of Geary Block.

Lincoln—Northwest by the County line, northeast by the River Saint John, southeast by the Oromocto River, and southwest by Blissville, including Thatch Island.

Burton—Southeast by the County line, southwest by Blissville, northwest by the Oromocto River, and northeast by the River Saint John, including Mauger's and Ox Islands.

Maugerville—Southwest by the River Saint John, northwest and northeast by the County lines, and southeast by the lower line of lot numbered four (Nathaniel Underhill and D. Palmer Junior) and its prolongation, including Oromocto Island.

Sheffield—Southeast and northeast by the County lines, northwest by Maugerville, and southwest by the River Saint John, including Middle Island.

IN YORK.

The City of Fredericton, as follows—Beginning at the northeasterly bank or shore of the River Saint John, in the northeastwardly prolongation of the lower boundary line of the grant to Stephen Jarvis and others, being the lower boundary of Kingsclear hereinafter described, thence extending to and along the said lower boundary line of the said grant to Stephen Jarvis and others southwestwardly until it intersects the northwesterly extremity of the northeasterly boundary of a tract of land heretofore granted to William F. Odell and associates, thence along the said last mentioned boundary and its prolongation southeasterly, to intersect the upper or northeasterly boundary line of Sunbury, thence along the said boundary line of Sunbury northeasterly until it intersects the northeasterly bank or shore of the River Saint John above mentioned, and thence along the said bank or shore along the line of high water mark, northwesterly or up stream, to the place of beginning.

New Maryland—Northeast by the City of Fredericton, southeast and southwest by the County lines, and northwest by

a line running southwesterly or parallel to the lower line from the southwest angle of the City of Fredericton.

Kingsclear—Northeast by the River Saint John, southeast by the City of Fredericton and New Maryland, southwest by the County line, and northwest by the lower line of lot numbered one, granted to Francis Horseman, and its southwesterly prolongation, including all the Islands in front with the exception of Big and Little Madam Keswick and Merithew's Islands.

Prince William—Southeast by Kingsclear, southwest by the limits of the County, northeast by the River Saint John, northwest by the lower line of lot numbered one hundred and forty three in the Prince William Grant, and its southwesterly prolongation, including all the Islands in front with the exception of Great Bear and Bloodworth Islands.

Dumfries—Southeast by Prince William, northerly, westerly, and southerly by the River Saint John and the limits of the County, including all the Islands in front with the exception of Big and Little Koack Islands.

Stanley—All that part of the County southerly and westerly by a line running east from the northwest angle of the grant to D. Campbell and others, and a line running from said angle southerly along the various courses of the western rear line of the grants to D. Campbell and associates and D. Lyman and associates, to the south branch of the Cleuristic Stream, thence up the same to the rear line of lots fronting on the east side of the Cardigan road, thence along said rear line to east angle of lot numbered forty four, thence north to the County line.

Saint Mary's—Southerly by the River Saint John and the City of Fredericton, westerly by Stanley and a line to commence at the western angle of lot numbered twenty nine, letter C, in the Maryland Loyalist's Grant, thence along the upper line of said lot to the rear thereof, thence north forty five degrees west to east line of lot numbered one (D. Sawyer), thence north to Stanley, northeast by Stanley, and southeast by the County line.

Douglas—East by Saint Mary's and Stanley, north by the County line, west by the east line of lot numbered fifty nine (Jonathan Williams) and its northerly prolongation to the County line, and south by the River Saint John and the City of Fredericton, including Big and Little Madam Keswick, and Merithew's Islands.

Queensbury—South by the River Saint John, northeast by Douglas, and northwest by the lower line of lot numbered one (Joseph Cunliffe), at the mouth of Nackawicac River, and its northeasterly prolongation to the line of Douglas, including Great Bear, Bloodworth, and Big and Little Koack Islands.

Southampton—Northwest by the County line, northeast by Douglas, southeast by Queensbury, and south by the River Saint John.

IN CARLETON.

Woodstock—South by the limits of the County, east by the River Saint John, and north by the lower line of lot numbered one (Caleb Phillips) and its prolongation westerly, and west by the rear line of the second tier of lots and its southerly prolongation to Eel River, including all the Islands in front.

Richmond—North by Meduxnakik River and the south branch thereof, easterly by Woodstock, and westerly and southerly by the County limits.

Wakefield—North by the lower line of lot numbered thirty eight (David Good) and the westerly prolongation thereof, westerly by the County line, south by Woodstock and Richmond, and east by the River Saint John, including all the Islands in front.

Simonds—North by the upper line of lot numbered ninety seven (H. M. Green) and the westerly prolongation thereof, westerly by the County line, south by Wakefield, and east by the River Saint John, including all the Islands in front.

Wicklow—North by the River DeChute, westerly by the County line, east by the River Saint John, and south by Simonds, including all the Islands in front.

Northampton—Southeast by the County line, southwest by the River Saint John, and north by a line running true east from the mouth of Shaw's Creek.

Brighton—East by the County line, south by Northampton, west by the River Saint John, and north by a line running true east from the southeast angle of Wicklow.

Kent—South by Brighton, east by the County line, west by the River Saint John, and north by a line running true east from the mouth of the River DeChute.

IN VICTORIA.

Andover—South by the River DeChute, west by the County line, east by the River Saint John, and north by the River Restook.

Grand Falls—South by Andover and a line to run true east from the northwest angle of the Tobique Indian Reserve, west and east by the County limits, and north by the River Saint John above the Grand Falls and a line to run true east from Grand Falls.

Perth—South and east by the County line, west by the River Saint John, and north by Grand Falls.

Saint Leonard—South by Grand Falls, southwesterly by the River Saint John, northeasterly by the County limits, and northwesterly by the lower line of lot numbered seventy two, near the mouth of Quisibis River, granted to Marcel Beaulieu, and its northeasterly prolongation, including the Islands in front.

Saint Basil—Southeasterly by Saint Leonard, northeasterly by the County limits, southwesterly by the River Saint John, and northwesterly by the lower line of grant numbered eighteen hundred and eight, near the mouth of the Madawaska River, granted to Simon Hebert in the year of our Lord one thousand eight hundred and twenty five, and its northeasterly prolongation, including the Islands in front.

Madawaska—Southeasterly by Saint Basil, southwesterly by the River Saint John, westerly by a line running north twenty five degrees west from the southeast angle of the lower half of lot numbered sixty seven, near the mouth of Baker's Brook, granted to F. W. Hatheway, and northerly by the limits of the County, including the Islands in front.

Saint Francis—Easterly by Madawaska, southerly by the River Saint John, and westerly and northerly by the limits of the County, including the Islands in front.

IN RESTIGOUCHE.

Eldon—West and south by the County lines, north by the Province of Canada, and east by a line running true south from the mouth of the Upsalquitch River, including all the Islands in front which belong to this Province.

Addington—West by Eldon, south by the County line, east by a line running true south from the middle of Walker's Brook or Ferguson's Mill Stream at the Bridge on the great road, and north by the River Restigouche, including all the Islands therein which belong to this Province.

Dalhousie—West by Addington, south by the County line, north by the River Restigouche, and east by the Bay of Chaleur and a line running true south from the forty eight mile post placed on the great road leading from Bathurst to Dalhousie, on the east side of Eel River Gully, including all the Islands in front.

Colborne—West by Dalhousie, south by the County line, east by a line running true south from the mouth of Benjamin River, and north by the Bay of Chaleur, including Heron Island and all the other Islands in front.

Durham—East and south by the County lines, west by Colborne, and north by the Bay of Chaleur, including all the Islands in front.

IN GLOUCESTER.

Beresford—West by the County line, east by the Bay of Chaleur, and south by the easterly prolongation of the south line of Restigouche.

Bathurst—North by the Bay of Chaleur, Beresford, and the County line, west and south by the County line, and east by the east line of lot numbered twenty nine (Jacob Tague) and the southerly prolongation thereof.

New Bandon—North and east by the Bay of Chaleur and Caraquet Bay, west by Bathurst, and south by the south Caraquet River from its mouth to mouth of Innishannon Brook, thence south forty five degrees west to Bathurst.

Caraquet—North by New Bandon, Caraquet Bay, and the Bay of Chaleur, southeast by the Gulf of Saint Lawrence, east by a line running from the west side or entrance of Little Pocmouche Lagoon north fifty two degrees west until it strikes the south branch of Saint Simon's Inlet, and thence through the centre of the said Inlet and the north entrance of Grand Shippagan Harbour to the Bay of Chaleur, southwest by the northeast line of lot numbered one (William Ferguson) and the prolongation thereof north thirty six degrees west three hundred chains, thence in a direct line to the mouth of Innishannon Brook, including the Islands of Caraquet and Poksudi.

Shippagan—Southwest by Caraquet, northwesterly by the Bay of Chaleur, and southeasterly by the Gulf of Saint Lawrence, including the Islands of Shippagan and Miscou.

Sauvarez—Northerly by New Bandon and Caraquet, west

by Bathurst, south by the County line, and southeast by the Gulf of Saint Lawrence.

IN NORTHUMBERLAND.

Alnwick—North by the County line, west by Bartibog River from its mouth up to the Bridge on the great post road, thence north to the County line, and southeast by the Gulf of Saint Lawrence and Miramichi Bay, including Sheldrake Island and all the other Islands in front north of the principal entrance to Miramichi Bay.

Newcastle—East by Alnwick, south by Miramichi River, north by the County line, and west by a line running north from the southeast angle of lot numbered five, granted to Oliver Willard, at Oxford Cove.

Northesk—East by Newcastle and the County line, north and west by the County lines, and south by a line running west from Beaubair's Point.

Ludlow—West and south by the County lines, north by Northesk, and east by a line running north and south from the mouth of Big Hole Creek.

Blissfield—West by Ludlow, north by Northesk, south by the County line, and east by a line running north and south from the mouth of Moore's Brook.

Blackville—South by the County line, west by Blissfield, north by Northesk, and east by a line running south twenty two degrees east, and north twenty two degrees west, from the mouth of Renous River.

Nelson—North by Northesk and the Main Miramichi River, west by Blackville, south by the County line, and east by the west line of lot numbered sixty one (William Brown) and its prolongation to the County line, including Beaubair's Island.

Chatham—North by the Main Miramichi River, west by Nelson, and south by Napan River from its mouth to the northwest angle of lot numbered thirty two (Henry Coils), thence south sixty eight degrees west to Nelson, including Middle Island.

Glenelg—West by Nelson, north by Chatham, Napan River, and Miramichi Bay, south by the County line, east by a line commencing at the mouth of Black River, thence extending up the middle of the said River following the several courses

thereof to the mouth of Little Black River, thence up the middle of the said Little Black River following the several courses thereof until it comes to the line separating the property of George Foulie from the lot numbered five, granted to Duncan M'Naughton, being the upper side line of the said lot numbered five, thence by the said line and a prolongation thereof, and southeasterly by the County limits.

Hardwicke—West by Glenlg, north by Miramichi Bay, and south by the County limits, including all the Islands in front which are south of the principal entrance to Miramichi Bay.

IN KENT.

Dundas—South by the County line to the distance of twenty miles from the north point of Shediac Island, west by a line running north twenty two degrees west from the western extremity of said distance, north by a line running south eighty two degrees west from the northeast angle of lot numbered one (Joseph Richard), and east by the Gulf of Saint Lawrence, including all the Islands in front.

Wellington—South by Dundas, northwest by Chockpish River and a line running south sixty eight degrees west from the forks thereof, and east by the Gulf of Saint Lawrence, including all the Islands in front.

Welford—South by Wellington, west by the west line of Dundas prolonged, north and east by a line running south from the mouth of Black Brook, the east branch and main River of Saint Nicholas, Richibucto River, the west line of the grant to William Harley, and its prolongation to rear of the Indian Reserve, thence by a line running true west.

Richibucto—South by Wellington, west by Welford and a line running true south from the forks of Aldouane River, north by the centre of Aldouane River and Lake, and east by the Gulf of Saint Lawrence, including all the Islands in front.

Carleton—West by the west line of Welford prolonged, south by Welford and Richibucto, north by the County line, and east by the Gulf of Saint Lawrence, including all the Islands in front.

Harcourt—South and west by the County lines, east by Dundas and Welford, and north by a true west line passing through the mouth of the north forks of Richibucto River.

Huskisson—Northwesterly by the County line, east by Carleton and Weldford, and south by Harcourt.

IN WESTMORLAND.

Dorchester—West by Petitcodiac River, north by a line running true east from the mouth of Fox Creek, east by the southeast line of lot numbered one (John Sherwood) and the prolongation thereof two hundred and fifty chains from the sea, thence north eleven degrees east by the magnet of the year of our Lord one thousand seven hundred and sixty five.

Sackville—North by the north line of Dorchester prolonged, west by Dorchester and Chignecto Bay, south and east by Cumberland Basin and the River Au Lac from its mouth to the upper line of the Sackville grant, thence by a line running north by the magnet of the year of our Lord one thousand seven hundred and sixty five.

Westmorland—Southeast by the Province limits, west by Sackville, and northeast by the north line of Sackville prolonged until it intersects the northeast line of the Cumberland grant, thence along the same southeasterly to Bay Verte.

Botsford—Northeast by the Straits of Northumberland, south by Bay Verte and Westmorland, and west by the west line of Westmorland prolonged northerly.

Shediac—East by Botsford, northeasterly by Northumberland Straits and the County line, south by Dorchester and Sackville, and west by the prolongation of the west line of the Grant to Columb Connor on the Shediac road.

Moncton—East by Shediac, north by the County line, west by that part of the east line of the grant to Martin Gay and associates which lies north of Petitcodiac River and the northerly prolongation thereof to the County line.

Salisbury—North, west, and south by the County lines, and east by Moncton and the County of Albert.

IN ALBERT.

Coverdale—North and east by the River Petitcodiac, south by the south line of lot numbered two (Robert Crossman) and its westerly prolongation, and west by that part of the County line run south twenty degrees west by Deputy Wilmot in the year of our Lord one thousand eight hundred and forty six, and its prolongation.

Hillsborough—South and west by the south line of lot numbered seventeen (William Carlisle) and its prolongation westerly to the distance of twelve miles from Petitcodiac River, thence by a line running north twenty degrees west by the magnet of the year of our Lord one thousand seven hundred and sixty five, north by Coverdale, and east by the Petitcodiac River.

Hopewell—North by Hillsborough, southeast by Chignecto Bay, and southwest by a line commencing at the mouth of Shepody River, thence up the centre of the said River to the mouth of Crooked Creek, thence up the centre of the said Creek to the old Bridge over the same on the old main road, and thence north twenty degrees west to intersect the south line of Hillsborough or its westerly prolongation.

Harvey—North by a line running south seventy two degrees west from the northwest angle of Hopewell, west by the County line, east by Hopewell, and south by Chignecto Bay, including Grindstone Island.

Elgin—North by Coverdale and the County line, east by Hillsborough, south by Harvey, and west by the County line.

16. All bearings or courses of lines described in this Chapter shall be taken and understood to be by the Magnet, unless otherwise expressed.

17. The City of Fredericton in the County of York, the Parish of Burton in the County of Sunbury, the Parish of Gagetown in the County of Queen's, the Parish of Kingston in the County of King's, the City of Saint John in the City and County of Saint John, the Parish of Saint Andrews in the County of Charlotte, the Parish of Dorchester in the County of Westmorland, the Parish of Newcastle in the County of Northumberland, the Parish of Richibucto in the County of Kent, the Parish of Bathurst in the County of Gloucester, the Parish of Woodstock in the County of Carleton, the Parish of Dalhousie in the County of Restigouche, the Parish of Hopewell in the County of Albert, and the Parish of Grand Falls in the County of Victoria, shall be and continue to be Shire or County Towns of the said Counties respectively.

TITLE II.
OF PUBLIC LANDS.

CHAPTER 2.

**OF THE GROUNDS AND ENCLOSURES AROUND THE PROVINCE
BUILDINGS IN FREDERICTON.**

Section.

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| 1. The Governor in Council may appoint a person for protection of. | 2. Penalty for trespasses and injuries, &c. |
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1. The Governor in Council may appoint a person to look after and protect the grounds enclosed around the Province Buildings in Fredericton, and the enclosures thereof, who shall, during his continuance in office, be deemed for all the purposes of this Chapter to be in lawful and exclusive occupation and possession of the said grounds and enclosures for the protection thereof.

2. If any person shall wilfully break down or remove any part of the said enclosures, or the gates thereof, or injure, remove, or destroy any trees planted within the same, he shall upon conviction thereof before any Justice, forfeit the sum of four pounds for every offence.

CHAPTER 3.

OF THE LAND BELONGING TO GOVERNMENT HOUSE.

Section.

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| 1. Land upon which Government House stands vested in the Queen. | 2. Commissioners to be appointed by Governor in Council. |
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1. The land upon which Government House stands, conveyed for the use of the Province, shall continue to be vested in Her Majesty for the sole purpose of a residence for the Governor.

2. The Governor in Council shall appoint one or more Commissioners to have the care and management of Government House and premises, and the control of the repairs and improvements thereof.

CHAPTER 4.**OF LANDS FOR MILITARY PURPOSES.****Section.**

1. Lands required for Military purposes, proceedings thereon.
2. Valuation to be paid to the Clerk of the Crown.

Section.

3. Such lands vested in the Queen, when.
4. Lots of land in Saint John vested in Her Majesty.

1. When the Commander in Chief of Her Majesty's Forces, or Commanding Royal Engineer, shall judge it necessary to erect fortifications on private property, or to apply the same to other military purposes, he shall apply to the Governor in Council, who shall, if he deem it advisable, direct the Clerk of the Crown in Chancery to issue a Writ to the Sheriff of the County where the lands are situate, commanding him to summon a jury of freeholders, who after being sworn, shall view the premises and ascertain to whom the lands belong, and the value of the interest of each proprietor separately, and of any occupant thereof; and he shall forthwith return the inquisition under his hand and seal, and the hands and seals of the said jury, to the Court of Chancery.

2. The Commander in Chief shall within twelve months after the return deposit with such Clerk of the Crown the amount of such valuation, to be applied by the Court of Chancery to the payment of the person who shall appear by the said inquisition or other proof entitled thereto.

3. When the inquisition is returned and the valuation deposited within the time aforesaid, the land described therein, with the appurtenances, shall vest in Her Majesty.

4. The fortifications and military works erected in the City of Saint John partly in that part of King Street which lies north of lots number four hundred and twenty eight to four hundred and thirty five inclusive, and partly on Wentworth Street, with the lands and portions of the Street on which they are situated, shall be vested in Her Majesty for military purposes.

TITLE III. OF THE PUBLIC REVENUE.

CHAPTER 5.

OF THE TERRITORIAL AND CASUAL REVENUE.

Section.

1. Proceeds of Hereditary, Territorial, and Casual Revenues, to whom paid.
2. Civil List granted to the Queen.
3. Moneys paid to Treasurer, how appropriated.
4. Governor in Council, what may expend from gross proceeds.

Section.

5. Expenditure to be laid before Assembly.
6. All sales, &c., to be made at public auction. Consideration and Great Seal, effect of.
7. Crown to have full management.
8. All bargains, contracts, &c., to remain valid.

1. The proceeds of all Her Majesty's Hereditary, Territorial, and Casual Revenues, and of all sales and leases of Crown Lands, Woods, Mines, and Royalties, now and hereafter to be collected, having been surrendered by the Crown, shall, with the exceptions hereinafter provided, be payable and paid to the Provincial Treasurer for the use of the Province.

2. There shall be granted to Her Majesty the clear yearly sum of fourteen thousand five hundred pounds lawful money of this Province, payable quarterly, on the thirty first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty first day of December, in each year, by equal proportions, out of the revenues aforesaid and all other revenues of this Province, to be paid by the Treasurer by Warrant under the hand and seal of the Governor, with preference to all other charges or payments.

3. All moneys paid to the Treasurer under this Chapter, except the said fourteen thousand five hundred pounds, shall form part of the general revenues, and be appropriated as such.

4. The Governor in Council may expend out of the gross proceeds of such hereditary and other revenues and such sales, the sums of money which from time to time they may deem necessary for the prudent management, protection, and collection thereof.

5. The Governor shall within fourteen days from the opening of every Session of the Legislature, cause to be laid before the Assembly a detailed Account for the previous year of all the particulars of the income and expenditure of and relating

to the said revenues, sales, and leases, accompanied by proper vouchers.

6. All grants, leases, or other assurances of any lands, rights, or revenues, by this Chapter declared to be under the control of the Legislature, shall be void unless the same be made upon sale or lease to the highest bidder at public auction, after due notice in the Royal Gazette, and the consideration thereof be made payable to Her Majesty. The Great Seal affixed to any such instruments shall be evidence in all Courts of the performance of these conditions.

7. Nothing in this Chapter shall impair or affect any powers of control, management, or direction, which have been or may be exercised by the Crown, or by other lawful warrant, relative to any proceedings for the recovery of any such revenues, or to compensation made or to be made on account of any of the same, or to any remission, mitigation, or pardon of any penalties, fines, or forfeitures, incurred or to be incurred, or to any other lawful act, matter, or thing which has been or may be done touching the said revenues, or to disable Her Majesty from making any grant or restitution of any estate, or of the produce thereof, to which Her Majesty hath or shall become entitled by escheat for want of heirs, or by reason of any forfeiture, or of the same having been purchased by or for the use of an alien, or to make any grant or distribution of any personal property devolved on the Crown for the want of next of kin or personal representatives of any deceased person; but such rights and powers shall continue to be exercised and enjoyed in as ample a manner as if this Chapter had not been made, and as the same have or might have been heretofore enjoyed by the Crown; but the moneys arising from the full exercise and enjoyment of the rights and powers aforesaid, shall be a part of the joint revenues at the disposal of the General Assembly, subject to the restrictions hereinafter provided.

8. Nothing herein shall annul or prejudice any sale, purchase, grant, lease, enfranchisement, exchange, agreement, bond, mortgage, security, exoneration, or other act, matter, or thing, relating to the said lands, woods, mines, or royalties, which on or before the seventeenth day of July one thousand eight hundred and thirty seven, has been made, given, effected, or created, but the same shall remain good and valid.

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CHAPTER. 6.

OF THE RECOVERY OF CERTAIN CROWN DEBTS.

Section.	Section.
1. Mode of proceeding when demand under £20.	4. Execution, for what to issue. Duty of Sheriff thereon.
2. Service of process, how, and where debtor out of the Province.	5. Appointment of Receivers.
3. Scire facias dispensed with and lands bound, when.	6. Their duties and compensation.
	7. Debts under £20 may be recovered before two Justices; but not to prevent higher remedy.

1. The Attorney General, or other prosecuting officer, may proceed at suit of the Queen against any Crown debtor where the demand does not exceed twenty pounds, in the same manner as in summary actions in the Supreme Court, so far as the same may be applicable, and the costs shall be the same, and be recoverable in all respects as in such actions.

2. The service of process shall be as in other cases in the Supreme Court ; and where the debtor shall be out of the Province and have no known place of abode therein, the service shall be effected as on a scire facias in the like case.

3. No scire facias shall be necessary for the establishment of Crown debts under this Chapter. The lands of the debtor shall be bound in cases of specialties from the date thereof, which date shall be set forth in the proceedings and judgment, and in case of simple contract debts from the time of signing the judgment.

4. An execution against the goods and chattels, lands and tenements of the debtor, shall issue for the recovery of any such debt for which judgment may be given ; and the Sheriff shall, for want of goods and chattels, levy on the lands and tenements of the debtor bound as aforesaid, whether in his hands or otherwise.

5. The Governor in Council may appoint fit persons to receive any debts due to the Crown which may be transmitted to them for collection, who shall execute to the Queen bonds, with security to the satisfaction of the Governor in Council, for a sum in each bond not exceeding five hundred pounds, for the faithful discharge of their duties.

6. Every Receiver shall with all diligence collect such debts and pay the same to the Receiver General, retaining for his services a reasonable commission (besides costs of proceedings

necessarily paid or incurred by him) not exceeding the rate of ten pounds for every hundred he may collect, to be allowed by the Governor in Council, but not to exceed in any one year one hundred pounds.

7. When any such debt shall not exceed the sum of twenty pounds, the Receiver may recover the same in the name of the Queen before any two Justices where the debtor may reside, with costs, under the laws relating to Justices' proceedings in civil suits; but no Crown officer shall be prevented from suing for the same in the ordinary course, if directed by the Governor in Council, or under the summary law as in this Chapter mentioned.

CHAPTER 7.

OF THE ADJUSTMENT OF CERTAIN DEBTS DUE TO, AND OF CLAIMS AGAINST THE CROWN.

Section.

1. Bond debtors in certain cases, relievable.

Section.

2. Purchasers of Crown Lands during a certain period, how to be dealt with.

1. Any person who may have given bonds for excess of timber cut on Crown Lands with licence, or for any quantity of timber cut without licence, or under the five year leases, where such bonds are due and unpaid, shall be relieved from liability thereon and the same shall be cancelled upon payment of such sum as shall be awarded by the Governor in Council, or without any payment, after full inquiry and hearing.

2. In cases where Crown Lands have been sold between the first day of January in the year of our Lord one thousand eight hundred and thirty two, and the thirty first day of December in the year of our Lord one thousand eight hundred and thirty seven, to purchasers in parcels exceeding five hundred acres, on which any instalments have been paid, and the lands relinquished to the Crown, and where any such purchasers, their assigns, or legal representatives, shall have petitioned on or before the first day of January in the year of our Lord one thousand eight hundred and fifty one for compensation in lands for such instalments, the Governor in Council may direct an inquiry into the claims of such petitioners, and should such claims appear equitable on account of such payments, the

Governor in Council may order a grant of a portion of the land originally purchased, where vacant, and where not vacant of such lands as may be selected by the grantees, to be made to such grantees, such portion to consist of so many acres as the sums so paid shall amount to at the original price agreed on for the same, first deducting from the amount all allowances for timber cut off the land, but no grant shall issue till the costs of survey, to be made under the direction of the Surveyor General, and other expenses, are paid.

CHAPTER 8.

OF THE COMMUTATION OF CERTAIN CROWN DEBTS.

Section.	Section.
1. Labour may be done on roads for certain Crown debts.	4. Time when work to be performed, width of roads, &c.
2. Commissioners to be appointed to superintend the same.	5. Commissioner how to make returns; amount allowed how credited.
3. Actual settlers must require benefit of this Chapter before certain time.	

1. The Governor in Council may permit purchasers of Crown Lands actually resident thereon, who have improved the same, and are indebted therefor in any principal sum to the extent of twelve pounds, to work upon the public roads as near as may be to their lots, in payment thereof.

2. The Governor in Council may appoint a Commissioner or Commissioners for any County or District therein to superintend the performance and application of the labour.

3. Every actual settler on the lot for which he is indebted, desirous of availing himself of the provisions of this Chapter, shall signify the same before the fifteenth day of June in any year to the Commissioner of the County or District in which he resides, and deposit with him one shilling on each pound of the debt he proposes to work out, and the Commissioner shall record his name and ascertain that he is entitled to the privileges of this Chapter before he allows him to avail himself thereof.

4. Every settler shall perform the work according to the specifications at such time before the first day of October, and at such place conveniently near to his residence, as the Commissioner may direct; but no road shall be made of less width than sixteen feet between the ditches, for which the Commissioner shall allow a sum not exceeding five shillings per rod,

and if a bridge is required to be built, a fair price therefor, according to the rate prescribed herein for a road.

5. The Commissioner shall immediately after the first day of October make a return of his proceedings, certified by him, specifying the name of each settler who has worked, the number of rods of road made, the bridges built, and the rates allowed ; and the amount allowed shall be credited on account of the debt ; and if the debt be fully paid the grant shall forthwith issue without further charges.

CHAPTER 9.

OF THE SALE OF CROWN LANDS IN CERTAIN CASES.

Section.

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| 1. Portions of Crown Lands how sold, and
moneys payable. | 2. Governor in Council may make regula-
tions. |
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1. The Governor in Council may cause portions of the vacant Crown Lands to be surveyed and laid off into lots not exceeding one hundred acres each, and sell and dispose thereof by private sale for the price of three shillings per acre or upwards, to industrious settlers, payable in money or by labour in opening and making such roads as will promote the improvement and settlement of the Province.

2. The Governor in Council may make rules and regulations for carrying out the provisions of this Chapter.

CHAPTER 10.

OF THE GRANTING OF MILL RESERVES IN CERTAIN CASES.

Section.

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| 1. Governor in Council may grant reserves
of land in certain cases; not to pre-
vent disposal, when. | 2. Reserve when to be nugatory.
3. Penalty for cutting or removing logs, &c.
4. Limitation. |
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1. The Governor in Council may upon written application, according to the form hereinafter prescribed, set apart by private sale portions of Crown Lands as mill reserves for a period not exceeding four years, for the use of saw mills erected and in operation before the fourteenth day of April one thousand eight hundred and forty six, situate upon small tributary streams, from and upon the lands adjacent to the

banks of which, above such mills, they shall solely depend for a supply of saw logs ; which reserves shall be in the following proportions, for a mill having one gate, not exceeding five thousand acres, for a mill having two or more gates, driving separate saws, not exceeding nine thousand acres, at an annual rent of not less than ten shillings for every square mile, to be reserved by the Governor and Council, payable annually in advance during the term of the reserve ; but nothing herein shall prevent the sale or disposal of any part of such reserves for actual settlement.

2. If such annual rent shall remain unpaid for a period of thirty days after it shall become due, or if any such mill shall at any time cease to operate for the term of one year, such reserve shall determine and become null and void, and the land included therein shall be open to general application for lumbering purposes, unless upon cause shewn to the satisfaction of the Governor in Council they shall otherwise direct.

3. Any logs, timber, or other lumber which may be cut and carried away from any such reserve for any other purpose than being manufactured in the mill for which the reserve shall have been granted, may be seized by the Crown, and upon lawful condemnation shall be forfeited and sold to Her Majesty's use, and the proceeds of the sale paid into the Casual Revenue.

4. This Chapter shall continue in force until the first day of May one thousand eight hundred and fifty five, and no longer.

FORM OF APPLICATION.

To His Excellency, &c. &c. &c.

The Petition of A. B.

Humbly sheweth,

That your petitioner is the owner (*or lessee*) of a saw mill situate on [*describe the stream by its name*] being a tributary running into the River in the Parish of in the County of , and having gates, driving separate saws ; that your petitioner is entirely dependent upon the lands on the said stream above the mill for a supply of logs for the same, which he cannot obtain from any other source ; that the reserve which your petitioner is desirous of obtaining is situate as follows :—[*Here describe the land*].

For the truth of the foregoing statement your petitioner refers to the annexed affidavit. [The affidavit to be made by disinterested parties, and state the size of the mill, number of gates, and the quantity each gate is capable of cutting.]

CHAPTER 11.

OF THE ESCHEAT OF MINING LEASES AND MILL RESERVES.

Section	Section.
1. Mining leases, conditions not performed, proceeding thereon.	2. Mode of service of notice, &c. 3. Lessee appearing, how to proceed.

1. On the report of the Crown Law Officers to the Governor in Council that the conditions of any mining lease, licence, or mill reserve, have not been complied with, and the same is therefore liable to forfeiture, the Governor in Council may direct the Attorney General, or in his absence, the Solicitor General, to give not less than thirty days notice to the holder of any such right, of the grounds of forfeiture, and unless he shall within that time make it appear to the satisfaction of the Governor in Council that there were no such grounds of forfeiture as are mentioned in such notice, the same shall be forfeited.

2. Upon proof of the due service of such notice in like manner as common process out of the Supreme Court is required to be served, or if such person shall be beyond the limits of the Province, or cannot be found within the same, then upon proof by affidavit of the service of such notice on his attorney, agent, or representative (if any) within the Province, or by publication of such notice for three consecutive months in the Royal Gazette, the Governor in Council may escheat such lease, licence, or reserve, upon such equitable terms and conditions as he may deem right, and regulate the expenses thereof, and thereupon order a record of such escheat under the Great Seal to be filed in the Secretary's Office, which record, or a certified copy thereof, under the hand of the Secretary, shall be evidence of such escheat in all Courts.

3. If the holder of such right shall in person, or by attorney, appear on or before the day fixed in the notice for the hearing, and require the common law mode of proceeding to be pursued, the Governor in Council shall allow the same on his

giving a bond to the Queen, with two sureties, in the penal sum of fifty pounds conditioned for the payment of all expenses of the escheat, if effected.

CHAPTER 12.

OF TRESPASSES TO LANDS AND OTHER PROPERTY OF THE CROWN.

Section.

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| 1. Wood not to be cut down, or minerals dug, &c., without licence. Penalty. | 4. Penalty for assaulting or obstructing officer. |
| 2. Property when to be forfeited and seized. <i>Onus probandi.</i> | 5. Mode of proceeding for penalties and forfeitures. |
| 3. Mode of proceeding on seizure. | 6. Certificate of probable cause, effect of, where no condemnation. |

1. No person shall cut down any trees, lumber, or wood of any description, on any Crown Lands, or open any mine, or dig or raise any minerals belonging to the Crown, or remove, use, injure, or destroy, any of such Crown property, without licence from the Governor or other legal authority, under the penalty of not less than two pounds nor more than twenty pounds for each offence.

2. All trees, timber, wood, or other lumber of any description, which may be cut down, found on, or removed from any Crown Lands, and any thing made therefrom, and all minerals which may be raised or removed from any mine belonging to the Crown, or which shall be taken or detained from the Crown without the licence aforesaid, to be proved by the person claiming the same wherever prosecuted, shall be forfeited to the use of the Queen, and may be seized and prosecuted to condemnation by any person to be appointed for that purpose.

3. Any thing which shall be seized as aforesaid shall be deemed to be condemned, unless the claimant, within fourteen days thereafter, deliver a notice in writing to the seizing officer, specifying particularly the property to which his claim applies, and when so condemned, the same may be forthwith sold at public auction by the seizing officer after ten days public notice.

4. Any person who shall assault or obstruct any seizing officer in the execution of his duty, or any person in his aid, or who shall wilfully remove, cut, or set loose any thing seized as aforesaid, shall pay a fine to the Queen not exceeding one

hundred pounds, nor less than two pounds, at the discretion of the Court where prosecuted, and if not paid after conviction, such person shall be imprisoned not exceeding one year, nor less than ten days, at the like discretion.

5. All penalties, forfeitures, and seizures, under the provisions of this Chapter, may be prosecuted by information of the Attorney General or Solicitor General, and where judgment shall be awarded therein, it shall be with costs against the offender, and the prosecution shall be commenced within one year from the offence; but where the value of any seizure shall not exceed one hundred pounds, any two Justices, on the information of the Attorney General or Solicitor General, may proceed to the condemnation of the goods seized.

6. If judgment of condemnation shall not pass, and the Court in which the prosecution is instituted shall certify a probable cause of seizure, no action shall be maintained against any person concerned in the seizure or prosecution thereof; and any such person may, if any action should be brought, plead the general issue and give the special matters in evidence.

CHAPTER. 13.

OF THE FEES OF CERTAIN PUBLIC OFFICES.

Section.

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| 1. Fees of Secretary's Office, to whom paid,
and how. | 2. Fees of Clerk of the Pleas, to whom paid,
and how. |
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Section.

1. All fees payable to or receivable by the Secretary of the Province for any thing done by him as such Secretary, or as Registrar or Clerk of the Crown in Chancery, shall be received by him and paid over to the Receiver General as a part of the public revenue; such fees shall be paid quarterly on the last days of December, March, June, and September, respectively in each year, and be accompanied by a detailed account thereof, specifying the particular services for which such fees have been paid, a copy of which shall be filed in the Secretary's Office for the purpose of being laid before the House of Assembly at the then or next Session of the Legislature.

2. The Clerk of the Pleas shall within ten days after the last day of each Term pay over to the Treasurer for the public use, all the fees he has received since the last preceding Term,

with a detailed account, specifying the particulars of such fees, and by whom paid ; he shall also annually on the first Monday in January, or within ten days thereafter, file a copy of such return in the office of the Secretary, for the purpose of being laid before the House of Assembly at the then sitting or next Session of the Legislature.

CHAPTER 14.

OF THE ORDINARY REVENUE.

Section.	Section.
1. Duration of Chapter.	6. Ship stores allowed from warehouse,
2. Grant of duties.	when.
3. To be in addition to any other duties.	7. Exemptions.
4. To be collected according to certain weights, &c.	8. Governor in Council, when may direct as to duties.
5. Duties on deep sea fisheries, &c., remitted.	9. When may declare by proclamation trade free.

1. This Chapter shall continue in force until the thirty first day of December in the year of our Lord one thousand eight hundred and fifty four.

2. There shall be collected and paid unto the Queen, for the use of the Province, upon all goods brought into the same, the several Duties set forth in figures in the subjoined Table, denominated "*Table of Duties*," opposite the respective goods in such Table specified, according to the value, number, or quantity thereof, whether from any part of the British Empire, or foreign place, or which may be saved from any wreck or stranded vessel.

3. The duties shall be in addition to any other duties which are or may be imposed, and shall be payable on all goods already imported on which no duties have been paid, in the same manner as if imported after the passing of this Chapter.

4. The duties shall be collected, paid, and received according to the weights and measures now in use in this Province, and if imposed according to specific quantity, value, or number, the same shall apply in like proportions to greater or less amounts.

5. On affidavit of the exporter of any dutiable goods for the deep sea or whale fisheries, the duties paid thereon shall be repaid, or if from the warehouse, the bonds shall be satisfied to the extent of the duties on the goods exported.

6. On satisfactory proof by affidavit that ship biscuit, salted beef, and pork, are required to be shipped as stores from any

warehouse, in a vessel of upwards of fifty tons burthen, for a voyage out and home of not less than thirty days probable duration, the same may be delivered from the warehouse as such stores, when entered on the vessel's clearance.

7. The goods mentioned in the Table hereinafter contained, denominated "*Table of Exemptions*," shall be free of duty.

8. The Governor in Council, in any case of doubt as to the duty on articles made up of several component parts, may direct such duty to be taken according to such part as appears to be within the intention of this Chapter.

9. The Governor in Council, whenever from time to time it may be thought advisable, may declare by proclamation what articles the growth, production, or manufacture of any of the British North American or West Indian Possessions, or of the United States of America, may be imported free of duty.

TABLE OF DUTIES.

Specific.

Apples, per bushel,	- - - - -	£0	0	6
Axes, each, of three pounds weight and upwards,	- - - - -	0	1	6
Butter, per hundred weight,	- - - - -	0	9	4
Beans and Peas, per bushel,	- - - - -	0	1	6
Barley, per bushel,	- - - - -	0	0	6
Barley Meal, per hundred weight,	- - - - -	0	2	0
Buckwheat, per bushel,	- - - - -	0	0	6
Buckwheat Meal, per hundred weight,	- - - - -	0	2	6
Candles of all kinds, except Sperm and Wax, per pound,	- - - - -	0	0	1
Sperm and Wax, per pound,	- - - - -	0	0	4
Cattle of all kinds, over one year, each,	- - - - -	2	0	0
Cheese, per hundred weight,	- - - - -	0	14	0
Cider, per gallon,	- - - - -	0	0	3
Clocks or Clock Cases of all kinds, each,	- - - - -	0	15	0
Coffee, per pound,	- - - - -	0	0	1½
Coals, per ton,	- - - - -	0	1	0
Chairs, per dozen, in addition to any duty im- posed on Chairs and parts of Chairs by this Chapter,	- - - - -	0	10	0
Corn Meal, per barrel of 196 lbs.,	- - - - -	0	1	0
Fruit, dried, per hundred weight,	- - - - -	0	9	4
Horses, Mares, and Geldings, each,	- - - - -	2	0	0
Lard, per pound,	- - - - -	0	0	1
Leather, Sole, Upper Leather, Harness and Belt	- - - - -	0	0	2½
Leather, per pound,	- - - - -	3		

Leather,

Sheep Skins, tanned and dressed, per dozen, £0 3 0
 Calf Skins, tanned, per dozen, - - 0 6 0

Malt Liquors of every description, (not being
acqua vitae, otherwise charged with duty),
 whether in bottles or otherwise, per gallon, 0 0 6

Meats, fresh, per hundred weight, - - 0 9 4
 Salted and cured, per hundred weight, - - 0 7 0

With an additional Duty of one shilling
 and two pence per hundred weight on
 and after the 1st day of April 1852,
 and a further increase of Duty of one
 shilling and two pence per hundred
 weight on and after the 1st day of
 April 1853.

Molasses and Treacle, per gallon, - - - 0 0 1
 Oats, per bushel, - - - - 0 0 3
 Oatmeal, per barrel of 196 lbs. - - - 0 2 4
 Rye, per bushel, - - - - 0 0 2
 Rye Flour, per barrel of 196 lbs. - - - 0 1 0
 Soap, per pound, - - - - 0 0 0½
 Spirits and Cordials, viz :

Brandy, per gallon, - - - - 0 3 4

Rum, for every gallon thereof of any strength
 under and not exceeding the strength
 of proof of 26 by the bubble, - - - 0 1 0

And for every bubble below 26 in number,
 by the bubble, an additional per gallon, 0 0 1

Lemon Syrup, per gallon, - - - 0 1 0

Gin, Whisky, and all other Spirits (not
 hereinbefore enumerated), per gallon, 0 1 6

Sugar, Refined, in loaves, per pound, - - 0 0 1½
 Refined Crushed, and White Bastard, per
 hundred weight, - - - 0 9 4

Of all kinds except Refined Crushed and
 White Bastard, per hundred weight, 0 6 0

Tea, per pound, - - - - 0 0 2
 Tobacco, manufactured, except Snuff and Cigars,
 per pound, - - - - - 0 0 1½

Wines, per gallon, - - - - - 0 2 6
 And on every hundred pounds of the true
 and real value thereof, in addition, - - 10 0 0

Wheat Flour, per barrel of 196 lbs. - - - 0 3 0

Ad-valorem.

On the following articles, for every one hundred pounds of the true and real value thereof, viz :

Anchors; Ashes; Barilla; Burr Stones; Cordage, except Manilla Rope; Chain Cables and other Chains for Ships' use; Cotton Wool and Cotton Warp; Copper and Patent Metal in sheets, bars, and bolts, for Ship building; Dye Wood; Felt; Hemp, Flax, and Tow; Hides, green and salted; Iron in bolts, bars, plates, sheets, and Pig Iron; Oakum; Ores of all kinds; Pitch; Sails and Rigging for new Ships; Sheathing Paper; Silk Plush for Hatters' purposes; Tallow; Tar; Tobacco, unmanufactured; Wool;

£1 0 0

On the following articles, for every one hundred pounds of the true and real value thereof, viz :

Bread and Biscuit; Bricks; Manilla Rope; Ready made Clothing;

10 0 0

Castings, viz :—Steam Engines and Boilers, and parts thereof; Mill Machinery; Ships' Castings; Composition Rudder Braces, &c.; Machinery of every description; Square Stoves, known and designated as Canada Stoves;

7 10 0

On the following articles, for every one hundred pounds of the true and real value thereof, viz :

Boots, Shoes, and other Leather Manufactures; Chairs and prepared parts of or for Chairs; Clocks, Wheels, Machinery, and Materials for Clocks; Household Furniture, (except Baggage, Apparel, Household effects, Working Tools, and Implements, used and in use of persons or families arriving in this Province, if used abroad by them, and not intended for any other person or persons, or for sale); Looking Glasses; Oranges and Lemons; Whale Oil, (except the return cargoes of Vessels fitted out for Fishing Voyages from Ports in this Province); Brushes; Hats and Hat Bodies; Piano Fortes; Snuff and Cigars;

20 0 0

Carriages, Wagons, Sleighs, and other Vehicles ; Veneer and other Mouldings for Looking Glasses, Picture and other Frames, made of Wood ; Wooden Wares of all kinds ; Matches ; Corn Brooms ; and all Agricultural Implements except Ploughs ;	£30 0 0
Iron Castings, viz :—Cooking, Close, Box, and Round Stoves, and parts thereof ; Apparatus for Cooking Stoves ; Franklin Stoves, Register Grates, Fire Frames, and parts thereof ; Kitchen Ranges, Boilers, Cast Iron Furnaces, and parts thereof ; Cast Iron Ploughs ;	15 0 0
And all other Goods, Wares, and Merchandise, not herein otherwise charged with duty, and not hereafter declared to be free from duty, for every one hundred pounds of the true and real value thereof,	7 10 0

TABLE OF EXEMPTIONS.

Baggage, Apparel, Household effects, Working Tools, and Implements used and in use of persons or families arriving in this Province, if used abroad by them, and not intended for any other person or persons, or for sale : Books, Printed : Carriages of Travellers, not intended for sale : Coins and Bullion : Corn Broom Brush : Indian Corn : Rice, ground and unground : Eggs : Manures of all kinds : Oil, Rubber, Fins, and Skins, the produce of creatures living in the sea, the return of Vessels fitted out in this Province for Fishing Voyages : Oil—Seal, Hake, Porpoise, Palm, and Rape : Plants, Shrubs, and Trees : Printing Paper, Types, Printing Presses, and Printers' Ink : Rags, Old Rope, and Junk : Rock and other Salt : Sails and Rigging saved from Vessels wrecked : Soap Grease : Wood and Lumber of all kinds, (except Cedar, Spruce, Pine, and Hemlock Shingles) : Block Tin : Zinc : Lead : Tin Plate : Bar and Sheet Steel : Lines and Twines for the Fisheries.

CHAPTER 15,

OF THE EXPORT DUTY ON LUMBER.

Section.	Section.
1. Amount of duty on lumber exported. What excepted.	5. Duty on Hacmatac.
2. Who to make statement and pay duties. Penalty when false.	6. Penalty and proceeding for departing, without paying duties.
3. Penalty and proceeding for not giving bond.	7. Offender may be arrested for penalties.
4. Penalty and proceeding for clearing out, or sailing without paying duties.	8. Limitation.

1. There is hereby imposed upon all timber and other lumber, except lathwood; laths, shingles, clapboards, sash pieces, handspikes, slabs, staves, fence pickets, palings, oars, scantling; and all other small lumber, sawed or hewed, every piece whereof shall not exceed five inches square and nine feet in length; shipped from this Province, the following rates of duty, that is to say:—

On every forty cubic feet of pine timber, one shilling;

On every forty cubic feet of spruce, juniper, or hard wood timber, masts, or spars, nine pence;

On every thousand superficial feet of saw logs or sawed lumber, one shilling.

2. The shippers or exporters of any timber or lumber liable to any of the duties hereby imposed, shall render on oath to the proper officer of the Treasury department at the port of shipment, a true statement of all the timber or lumber liable to any of the said duties, which shall be shipped on board of any vessel for exportation, and at the same time shall pay the duties imposed thereon to the proper officer. Whoever shall make a false statement thereof shall upon conviction pay a sum not exceeding fifty pounds, to be recovered in Her Majesty's name, to the use of the Province.

3. If the shipper or owner of any such timber or lumber, before loading or causing the same to be laden on board of any vessel, shall not execute a bond, to the Queen, with two sureties to be approved by the proper officer at the port of shipment, conditioned for the payment of all duties on such timber or lumber which shall be laden on board the vessel, before clearing at the Custom House of the port of shipment, or sailing therefrom, he shall be liable to a penalty not less than three pounds nor more than one hundred pounds for every

offence, at the discretion of the Court before whom he shall be prosecuted, which penalty shall be recovered in the name of the proper officer, and when recovered shall be paid, three fourths thereof to the Treasurer for the use of the Province, and the remaining fourth to him who shall inform and proceed for the same.

4. If the shipper or owner of any such timber or lumber, or the master of any vessel on board of which the same may be laden, shall clear such vessel at the Custom House before he shall have paid the duties thereon, and procured from the proper officer of the port where the same shall have been shipped, a certificate that the duties have been paid, or shall depart with such vessel so laden, or suffer her to depart from any port within to any place out of the Province without making such payment, he shall forfeit for every offence a sum not less than three pounds nor more than one hundred pounds, at the discretion of the Court before whom such offender shall be prosecuted, and when recovered shall be appropriated as in the last preceding Section.

5. There shall be imposed a duty of two shillings upon each and every hacmatac or juniper knee, root, or futtock, shipped or otherwise exported from this Province.

6. If the exporter or owner of any such timber, hacmatac, or lumber, or the master of any raft or carriage in or on board of which the same may be laden or rafted, shall depart with the same before he shall have paid the duties thereon, and procured from the proper officer at the port or place of exportation, a certificate that the duties imposed by this Chapter have been paid, he shall for every offence forfeit a sum not less than three pounds nor more than one hundred pounds, at the discretion of the Court before which such offender shall be prosecuted, and when recovered shall be applied according to the provisions of this Chapter.

7. Any of the parties who shall become liable under this Chapter may be held to bail on any such bond, or for any of the penalties hereby imposed, as in case of civil suits, or if the proceeding be before a Justice may be arrested by warrant.

8. This Chapter shall continue in force until the first day of April one thousand eight hundred and fifty five.

CHAPTER 16.

OF SALES BY AUCTION.

Section.	Section.
1. Duties on auction sales, and exceptions.	5. Officer to require accounts, and to sue if not furnished.
2. Auctioneers to be licenced and give bond.	6. Licence Auctioneers to pay for licences, when, how applied.
3. Penalty for selling without licence, &c.	7. Time for selling smuggled goods and mode of prosecution.
4. Account of sales to whom rendered, and duties paid.	

Schedule of Forms.

1. There shall be collected and paid to the Queen, for the use of the Province, on all goods sold within twelve hours from the commencement of every auction sale, one pound for every hundred pounds in value, and at the same rate for every greater or less sum; but tea imported direct from China, goods of the Crown, or seized for any forfeiture or penalty, lands, vessels, cattle, salt, coal, household effects, agricultural products, and manufactures of this Province or Nova Scotia, effects of deceased persons, goods distrained for rent or taken in execution, effects of insolvent, absconding, or absent debtors, goods damaged at sea and sold within twenty days after landing, shall be exempt from duty.

2. Every Auctioneer shall be licenced by the Governor, and shall execute a Bond (A) to the Queen, with two sureties satisfactory to the proper officers; if within the City of Saint John the penalty of the bond to be five hundred pounds, in all other parts of the Province to be two hundred pounds. If the sureties or either of them die, remove from the Province, or in the opinion of such officer become insufficient, he may require a new bond with like sureties and conditions, and if not given within one month the licence shall be forfeited.

3. Whoever shall sell any lands or goods by auction, without licence, and executing the bond aforesaid, shall for each offence pay the sum of one hundred pounds.

4. Every Auctioneer who shall not within thirty days from the end of every three months render to the proper officer an account in writing on Oath (B) as in the Schedule herewith, of all auction sales by him, and pay the duties thereon to such officer, shall for each offence pay the sum of fifty pounds.

5. The proper officer shall require such accounts to be regularly furnished, and proceedings to be instituted if neglected, and

shall keep a book of entries of all moneys received for auction duties.

6. Licensed Auctioneers shall within ten days after the first day of every year pay to the Treasurer of the County, for which he holds the licence, such sum as the Sessions may order, not exceeding ten pounds, and on neglecting to pay the same shall forfeit twenty pounds, to be recovered with costs in the name of such Treasurer; the said sums to be applied as other contingent funds of the County. In the City of Saint John the Auctioneer shall pay to the Chamberlain for the use of the Corporation, a sum not exceeding thirty pounds; and this Chapter shall not interfere with any of its privileges.

7. No Auctioneer shall knowingly sell any smuggled goods, under the penalty of one hundred pounds, to be recovered, together with the penalties mentioned in Sections three and four of this Chapter, by information of the Attorney General in the Supreme Court, and paid, after deducting costs of prosecution, into the Treasury for the use of the Province.

SCHEDULE.

(A)

Know all men that we, [naming the parties and their descriptions] our heirs, and representatives, are jointly and severally bound unto the Queen in the sum of £ to be paid to Her Majesty.—Sealed and dated the day of

A. D. 185 .

The condition of this obligation is, that if the above bounden being a licensed Auctioneer for the County of shall render a true account on oath to the Province Treasurer (or Deputy Treasurer in said County, as the case may be,) of all goods liable to auction duty sold by him, and punctually pay such duties, and act in all things as such Auctioneer according to law, then the said obligation shall be void, otherwise to be in full force.

Sealed and delivered }
in the presence of }

(B)

'I A. B. do swear that the account exhibited signed by me, contains the particulars of all sales liable to auction duty made by me, or any person under me, within the time herein mentioned.—So help me God.'

CHAPTER 17.

OF PAWN BROKERS:

Section.	Section
1. Pawn Brokers how licenced, and what to pay.	7. Pawned goods, how and when redeemed. Surplus, and forfeiture.
2. What recognizance required. Penalty for acting without licence.	8. Sale of pawns; accounts, proceeds, and penalty.
3. Who deemed Pawn Brokers, times when pawnis may be taken, and from whom; what sign over door. Penalty.	9. Redemption of pawned goods, when, and proceeding.
4. Rates of charges by.	10. Who deemed owner of pawn, &c.
5. Table of, to be exhibited.	11. Loss of evidence provided for.
6. Book of particulars about pawn, how kept, and when open.	12. This Chapter not to interfere with privileges of Saint John.

1. The Sessions shall appoint Pawn Brokers in their respective Counties, and shall receive for each licence the sum of ten pounds for one year for the use of the County.

2. The Pawn Broker shall enter into recognizance with two good sureties to the Queen, in the penal sum of one hundred pounds, conditioned to observe the provisions of this Chapter, and such regulations as the Sessions may make, and any person acting as a Pawn Broker without licence, shall be liable to the penalty of ten pounds for each offence.

3. A person receiving by way of pledge any goods for the repayment of money lent, shall be deemed a Pawn Broker. No Pawn Broker shall between sunset and sunrise take goods in pledge from any person, nor from a minor knowing him to be so, or an intoxicated person at any time; any Pawn Broker within one year from the pawning, and whilst carrying on his business in any shop or store, shall place over the outside door thereof a sign, upon which shall be painted or printed in large and legible characters his name, and underneath, the words Pawn Broker; for every week such sign is not there he shall forfeit two pounds.

4. Pawn Brokers may take the following rates of profit till the pawn be redeemed, viz:—

A pledge whereon a sum not exceeding two shillings and six pence is lent for one month, one half penny;

If five shillings, one penny;

If seven shillings and six pence, one penny half penny;

If ten shillings, two pence;

If twelve shillings and six pence, two pence half penny;

If fifteen shillings, three pence;

If seventeen shillings and six pence, three pence half penny;
If twenty shillings, four pence;

And in that proportion for every sum not exceeding forty shillings; if exceeding forty shillings and not ten pounds, three pence for every twenty shillings by the month; and so on in the same proportion for any fractional sum; the above rates shall include all charges, but there shall be no fractional part of a month.

5. Every Pawn Broker shall exhibit in some conspicuous part of his shop or place of business a printed or written table of the above rates of charges.

6. He shall also keep a book on which shall be entered at the time of each loan a description of the goods pawned and when, the sum lent thereon, the name and residence of the pawnner, at the same time shall deliver to the pawnner a duplicate of the entry which shall be produced to the Pawn Broker before he shall be obliged to restore the pawn except as hereafter provided. The book so kept shall at all reasonable times within business hours be open to the inspection of any Justice, and shall be produced by him, if required, under the penalty of forty shillings for each offence.

7. Pawned goods not redeemed within one year may be sold at public auction after ten days notice of the time and place of sale, with a description of them published in a Newspaper or posted up in the Pawn office and two other public places in the town where the sale is to take place; if any surplus remain after deducting the loan, interest, expenses of advertising and selling, it shall be paid to the person entitled thereto, and for every offence against this Section the Pawn Broker shall forfeit five pounds.

8. Every Pawn Broker shall enter in a book an account of the sale of such goods, the time and place thereof, when pledged, the name of the pawnner, the name of the auctioneer, the proceeds of sale, and the expenses, which book may be inspected by the pawnner, or his personal representatives, at any time. The Pawn Broker shall also pay over the net proceeds of sale to the pawnner when demanded. For a breach by the Pawn Broker of any of the duties imposed upon him by this Section he shall forfeit five pounds.

9. Goods pawned may be redeemed at any time within one

year from the pawning thereof. If the Pawn Broker refuse to return the pledge after tender of principal and interest due thereon, he shall upon conviction thereof before a Justice, be committed until he re-deliver the pledge or make satisfaction for the value.

10. The person producing the duplicate entry shall be deemed the owner, and the Pawn Broker shall be indemnified if he deliver the goods to the holder of such duplicate, unless the same be lost, mislaid, or fraudulently obtained.

11. If the duplicate entry be lost, mislaid, or obtained as aforesaid, and on oath before a Justice he shall so certify, the pawnor shall then be entitled to redeem the goods upon leaving with the Pawn Broker copies of the duplicate entry and the oath.

12. The Mayor, Aldermen, and Commonalty of the City of Saint John may grant licences to Pawn Brokers in the City as they have hitherto done, and shall have the same power to grant licences as Justices in Session; and such Pawn Brokers shall be subject to the provisions of this Chapter. All licence money and penalties arising in the City shall be paid to the said Corporation.

CHAPTER 18.

OF THE DUTIES ON DISTILLED SPIRITS.

Section.	Section.
1. Distillery licence, how granted; penalty for distilling without.	3. Account to be rendered, how. 4. Payment of duties, how made.
2. Duties on distilled spirits.	5. If accounts not rendered what forfeiture.

1. No Distillery for the manufacture of spirituous liquors shall be used in this Province unless an annual licence be obtained therefor from the Provincial Treasurer, under the penalty of one hundred pounds for every time the same shall be so used without licence; no licence shall be granted but on the payment of the sum of ten pounds, nor to any other person than the owner of the Distillery, nor until oath be made before the Treasurer of such ownership; the licence shall contain the name of the licensee, the Parish and County where his House and Distillery are situate, the sum paid for the licence, the time of its commencement, and of its termination, which last shall always be on the thirty first day of December in each year.

2. For every gallon of spirituous liquors distilled in this Province by licence there shall be paid by the manufacturer to the Queen, for the use of the Province, the duty of one shilling and six pence.

3. Every licenced person on the first Monday of each month in every year shall deliver to the proper officer where the same may be manufactured, an account in writing on oath, which oath shall be to the following effect:—

'I, A. B. do swear that the account I have now rendered and subscribed of the spirituous liquors manufactured at my Distillery since the day of to the day of is true, and that no such liquors have been taken from such Distillery with my knowledge, except by licence from the proper authority.—So help me God.'

4. When such duties shall amount to twenty-five pounds, they shall be paid on making oath aforesaid; when to fifty pounds, they shall be secured by bond executed to the Queen, with sufficient sureties, payable to the proper officer in three months; and when the duties shall exceed one hundred pounds, the like bond shall be executed to secure the payment thereof as follows, one third in four, one third in eight, and the remaining third in twelve months.

5. If such account be not delivered as aforesaid, the liquor manufactured for which such account ought to have been made shall be forfeited, and be proceeded against in the same manner as any goods liable to forfeiture under the Revenue Laws.

CHAPTER 19.

OF BUOYS AND BEACONS.

Section.

1. Duties granted for Buoys and Beacons.
2. Deputy Treasurer to collect duties, &c.
3. Masters of vessels to pay duties to Deputy Treasurer. Penalty.
4. Governor, in Council to appoint Commissioners, who shall give bonds, &c.
5. Commissioners' duties.
6. To account for all duties received, producing Commission.
7. Penalty on removing, &c., any Buoys or Beacons.

1. There shall be paid to the Queen for defraying the expenses of building, rebuilding, and supporting Buoys and Beacons, one penny for every ton registered tonnage on all vessels, coasters excepted, for every time they shall enter the following places:—The Bay or Harbour of Miramichi, in the

County of Northumberland; the Bay or Harbour of Richibucto, or Buctouche, in the County of Kent; the Bay or Harbour of Bathurst, Carraquet, or Shippagan, in the County of Cloucester; the Bay or Harbour of Shediac, in the County of Westmorland; and one half penny on entering respectively Passamaquoddy Bay within Deer Island, and the Bay or Harbour of Restigouche; but coasters entering the Bay of Passamaquoddy shall be exempt; and no coasting vessel under sixty tons register shall pay oftener than once every year, and between sixty and a hundred tons oftener than twice; and all vessels clearing from any ports in British North America, or on a fishing voyage, shall be deemed coasters under this Chapter.

2. The Deputy Treasurer of the district where the vessel may arrive, or any person appointed by him, shall collect the duties hereby imposed, and pay the same as collected to the Commissioners hereinafter mentioned, and render an account of the same when required on oath to the Commissioners of the district; he shall also keep a separate account of such duties and render the same annually to the Treasurer with proper vouchers.

3. Any master of a vessel liable to such duty, who shall not within twenty four hours after his arrival call on such Deputy Treasurer and pay the same, shall forfeit the sum of five pounds, to be recovered in the name of such Deputy Treasurer before any Justice, and be paid to the Commissioners for the purposes of this Chapter.

4. The Governor in Council may appoint any number of fit persons, being residents, not exceeding three to each Bay, Harbour, Port, or River, in the Counties where Beacons and Buoys are erected or required; to be Commissioners of Buoys and Beacons, each of whom shall execute a bond to the Queen, with two sufficient sureties, to the satisfaction of the Deputy Treasurer where such Commissioner may be, in the sum of three hundred pounds conditioned for the faithful performance of his duties.

5. The Commissioners shall annually as soon as practicable after the opening of the navigation, cause the necessary Beacons and Buoys to be erected or replaced in the most suitable situations for the protection of the navigation; no Beacon or

Buoy to be removed for the winter season till the twentieth of November in each year, or as soon after as the Commissioners shall require.

6. The Commissioners shall on the twentieth of December in each year render to the Treasurer an account on oath of the money received and expended by them, to accompany his public accounts when transmitted, and shall also render a copy of such account to the first Sessions in every year. The Commissioners, after retaining ten per cent. for their services, shall apply all balances in their hands for the further improvement of the navigation in their respective Harbours.

7. Whoever shall take away, destroy, deface, or remove any of the said Beacons or Buoys, shall forfeit a sum not exceeding fifteen pounds nor less than five pounds, to be recovered and applied as aforesaid.

CHAPTER 20.

OF THE REGULATION OF LIGHT HOUSES.

Section.	Section.
1. Duties granted for Light Houses.	8. Annual grant, to whom paid.
2. To be paid by master, &c. of vessel, and mode of raising.	9. Grant when to be paid.
3. Time when duty to be paid.	10. When balance to be paid only.
4. Duties to be paid by Warrant for support of Light Houses; surplus.	11. Duty on registered vessels, and what coasters, &c. shall pay.
5. Number of Commissioners and their duties.	12. When coasters, &c. shall pay duty.
6. Commissioners not to be paid, except one who shall be Superintendent and receive a Salary.	13. How vessels to pay when making voyages beyond Gulf.
7. Recital of agreement for Light Houses in Gulf of Saint Lawrence.	14. Masters to report arrival, when.
	15. Accounts to be kept by whom; Duty how paid in and applied.
	16. Commissioners to account, when and to whom.

1. There shall be paid to the Queen for the support of Light Houses erected or to be erected upon any of the coasts of the Bay of Fundy, or islands or rocks adjacent, a duty of three pence per ton, according to the register, of all vessels which shall arrive at any place within such Bay, except such as may be one hundred tons or under, on which shall be annually paid as follows:—Not less than seventy five tons thirty five shillings, not less than fifty tons thirty shillings, not less than thirty five tons twenty five shillings, and all under thirty five tons twelve shillings; but on vessels arriving from any place without the Bay of Fundy and visiting several places within the Bay to complete the voyage, the duties shall not

be levied more than once, and in no case shall a vessel be liable for duties oftener than six times in any one year.

2. The duties shall be paid by the master, owner, or consignee of such vessel, on arriving as aforesaid, to the proper officer, and in default thereof they may be recovered before any Justice in the name of such officer, and shall be levied by warrant of distress and sale on the tackle, apparel, and all other things belonging to the vessel, paying the overplus, if any, to the party entitled.

3. The annual duty hereby imposed shall be levied on the vessel's first arrival at any place within the Bay of Fundy on or after the first day of January in each year.

4. All moneys collected by virtue of this Chapter shall be paid by Warrant of the Governor, and applied for the support of the several Light Houses aforesaid, and for building and supporting other Light Houses, reserving any surplus separate from the ordinary revenues unless disposed of by a special Act.

5. The Commissioners to be appointed under this Chapter shall not exceed five; they shall have charge of all Harbour Lights and Light Houses within and near the said Bay, including such as are supported jointly by Nova Scotia and in this Province; they shall make public contracts for supplies for the same, for erecting new Light Houses, and for all alterations and repairs, giving four weeks notice thereof, and accepting the lowest tenders when accompanied by proper security; they shall appoint keepers, and ordain and enforce regulations for the proper lighting and keeping of such Light Houses; and shall annually on or before the twentieth of January render to the Provincial Secretary, detailed accounts on oath of all contracts and expenses made and incurred, to be laid by the Governor before the General Assembly.

6. The Commissioners shall not be entitled to any commission for their services, but one of their number shall be appointed by the Executive Government to be Superintendent, who shall receive for his services a sum not exceeding one hundred pounds, which shall be a compensation as well for such services as for the expense of attending the Light House Stations, office rent, and other expenses; and he shall perform all the duty under the direction of the Commissioners.

7. Whereas His Most Gracious Majesty King William the

Fourth was lately pleased to signify to His faithful Commons of New Brunswick, his disposition to render less dangerous the navigation of the Gulf of Saint Lawrence, by erecting Light Houses upon the Islands of Saint Paul and Scattarie, off the coast of Cape Breton, provided the Colonies whose trade would be thereby benefited should engage to provide for their future maintenance : And whereas Commissioners were thereupon, in pursuance of the recommendation of His Majesty's Ministers, appointed by the several Provinces of Lower Canada, New Brunswick, Nova Scotia, and Prince Edward Island, which said Commissioners have made a final award as to the site, structure, and apportionment of the annual expense of maintaining the Light Houses and humane institutions herein-after mentioned, and have thereby awarded and determined that the superintendence of building Light Houses on the Islands of Saint Paul and Scattarie, shall be vested in the Board of Commissioners appointed by the Government of Nova Scotia ; that two good and sufficient Light Houses, with bells and guns, shall be erected on Saint Paul's Island, at the extreme point, so as to be conspicuous on entering and leaving the Gulf of Saint Lawrence ; that the Light House on the Island of Scattarie shall be erected on the east point of the said Island, which is about thirty feet above the level of the sea ; that the Light Houses on Saint Paul's should be of suitable elevation, and constructed on such principles and with such further additions and appendages as may render them useful and conspicuous in a foggy atmosphere, with keepers' houses, stores, or warehouses, with frost proof cellars to preserve provisions for the relief of shipwrecked persons, detached from the Light Houses ; that the establishment on the Island of Scattarie should consist of one Light House, with revolving lights to distinguish it from others on the coast, with a keeper's house, warehouse, and cellars similar to those recommended for Saint Paul's, subject however to any improved mode of constructing such lights as the Board of Commissioners may think fit to adopt ; that the whole duty of fixing upon the materials to be employed and the plans to be adopted for the lights, should be left to the discretion of such persons as may be charged with the superintendence of their erection ; that the establishment at Saint Paul's will

require one Superintendent and six other persons under his direction, with boats and a continued supply of provisions, clothing, bedding, fuel, &c. for the use and assistance of shipwrecked persons, and that the establishment at Scattarie should consist of one Superintendent and three other persons, with a boat and a continued supply of provisions, clothing, bedding, fuel, &c. for the use of shipwrecked persons ; and that all the lights should be kept burning throughout the year ; and as to the maintenance of the said lights and humane establishments, the said Commissioners did award and determine that New Brunswick should pay to the Government of Nova Scotia into the Treasury thereof, two hundred and fifty pounds Halifax currency, on the first day of July in each and every year after the said Light Houses and humane establishments shall be in operation, and as long as they continue to be so, in conformity with the provisions of the said award ; that Lower Canada shall annually pay five hundred pounds, Prince Edward Island thirty pounds, and Nova Scotia itself two hundred and fifty pounds, making the whole annual amount one thousand and thirty pounds ; and that with the amount so contributed the Government of Nova Scotia shall support, uphold, and maintain the said Light Houses and humane establishments ; it being well understood that in case the said amount should prove insufficient in any one year, the deficiency ought to be provided by the respective Legislatures of Lower Canada, Nova Scotia, and Prince Edward Island, in such manner as shall appear to them most eligible, and in the same ratio as settled in the said award, but as to New Brunswick the sum of two hundred and fifty pounds aforesaid shall be a settled and permanent contribution, the overplus (if any) going to Nova Scotia, and the proportionate deficiency being borne altogether by the said last mentioned Province ; provided however, that should His Majesty's Government contribute at a future period to the support of the said establishments by an annual grant, a rateable deduction shall be made from the amount of each Provincial contribution : And it was also by the said award expressed, that if the said Light Houses and establishments are destroyed by fire, tempest, or other causes, the expense of rebuilding the same shall not devolve upon Nova Scotia ; and also that the Board of Commissioners of Nova Scotia shall render accounts

in each and every year to the House of Assembly of Nova Scotia, duplicates of which shall be transmitted annually to the Legislatures of Lower Canada, New Brunswick, and Prince Edward Island respectively; for the purpose therefore of carrying into effect the said recited award, and providing the annual proportion of the expenses thereby charged upon the Province of New Brunswick;

8. The annual sum of two hundred and fifty pounds, Nova Scotia currency, shall be paid to the Governor of Nova Scotia on the first day of July in each year, for the use of the said Province, to be drawn by Warrant of the Governor in Council.

9. No payment of the said annual sum shall be made until accounts of the expenses incurred in maintaining the said Light Houses and establishments during the year preceding, shall have been received by the Governor, nor unless it appears by the certificate of the respective Commissioners that the said Light Houses and establishments have been and are in uninterrupted operation.

10. If Her Majesty's Government contribute to the support of the said Light Houses and establishments by an annual grant or otherwise, a rateable deduction shall be made, and the balance only shall be paid as aforesaid.

11. A duty of one penny per ton on all registered vessels arriving at any port in the said Gulf shall be paid to the Queen by the master or owner thereof, for the support of the said Light Houses and establishments, except coasters, which shall include vessels belonging to Canada, Nova Scotia, Prince Edward Island, or New Brunswick, and fishing vessels, which shall include vessels belonging to the same or Newfoundland, and wholly employed in the said Gulf; which coasters and fishing vessels shall pay annually, when under thirty five tons, six shillings, from thirty five to fifty tons, twelve shillings and six pence, from fifty to seventy five tons, fifteen shillings, and for all over seventy five tons, seventeen shillings and six pence.

12. All such coasting and fishing vessels making a voyage beyond the said Gulf shall, upon arriving at any port therein, pay the duty of one penny per ton, besides the annual duty of a coasting or fishing vessel, and thereupon shall receive from the proper officer a new coasting receipt, which shall free the said vessel from further duty to the end of the year, unless she

make other voyages beyond the Gulf within the year, when the like tonnage duty shall be paid.

13. No vessel arriving from any port without the Gulf of Saint Lawrence shall be liable to pay the like tonnage duty more than once a year, notwithstanding, in order to complete the voyage, there may be occasion to visit several ports within the said Gulf, and no such vessel shall be liable to pay such duties more than four times in one year.

14. The master of any vessel subject to duty under this Chapter, entering any port in the said Gulf shall within twenty four hours after arrival, and before breaking bulk, report and pay the tonnage duty aforesaid, or forfeit the sum of five pounds.

15. Separate accounts of the duties collected under this Chapter shall be kept by the proper officer, and such duties shall be paid into the Province Treasury to pay the annual grant of two hundred and fifty pounds; the surplus (if any) shall be paid to the Commissioners of Lights for the said Gulf, to be by them applied in the erection and maintenance of Light Houses and improvement of the navigation of the said Gulf or any of its Harbours in this Province, as they shall deem advisable.

16. The said Commissioners shall annually on the first day of January render their accounts upon oath, with vouchers of the application of all such moneys, to the Governor.

CHAPTER 21.

OF PASSENGERS AND HEAD MONEY.

Section.

1. Masters of vessels to pay head money.
2. Refusal to pay, remedy.
3. Duty of Physician on arrival of vessel, and of proper officer.
4. Action on passenger bond, when brought, how money applied, &c.
5. Report of Emigrant Officer, effect.
6. Treasury Officers to keep account of head money, and how applied.
7. Orphan, &c. children of emigrants to be bound out.

Section.

8. Indentures of apprenticeship of whom, how executed, assigned, &c.
9. Property of deceased emigrants, how recovered.
10. Master to make a list of passengers; its contents. Penalty and recovery.
11. Passengers not receiving provisions may recover compensation therefor, how.
12. Vessels not to be cleared out until sums, &c. under Statute be paid.

1. The master of any vessel arriving at any port or place in this Province from any port of Europe with passengers shall, on reporting such vessel, pay to the proper officer of such port or place the sum of two shillings and six pence for each passenger.

2. Upon the refusal or neglect of the master to pay the said sum or sums, the proper officer shall prosecute for the same before any two Justices where such vessel may be, and on conviction any thing belonging to the said vessel may be seized by warrant directed to any constable, and sold therefor; and no such vessel shall be cleared out, or proceed to sea, until all sums of money be paid to the proper officer.

3. Any visiting Physician duly appointed shall forthwith on the arrival of any passenger vessel go on board thereof, examine her condition, inspect the passengers' list, bill of health, manifest, and log book, and if necessary make extracts therefrom; and if he shall find amongst them any person lunatic, idiotic, maimed, blind, aged, or infirm, not belonging to any emigrant family, and likely to become a permanent public charge, he shall forthwith report the same to the proper officer, who shall require the master, in addition to any head money, to execute the Bond (A) to the Queen, with two sureties to the satisfaction of the proper officer, which bond may be dispensed with or cancelled by the Governor in Council upon the payment of a reasonable sum within the penalty.

4. No action shall be brought upon such bond unless within three years from the execution thereof; and any sum recovered thereon shall be applied by the Governor in Council to the maintenance of such passenger named in the bond. After the execution of any such bond before any Deputy Treasurer he shall transmit the same forthwith to the Provincial Treasurer, who shall retain it for three years from the execution thereof, if not previously satisfied or put in suit.

5. The report of the Chief or Assistant Emigrant Officer as to the maintenance of any such reported passenger, shall be final and conclusive in the matter, and evidence of the facts therein stated.

6. The Treasurer and respective Deputy Treasurers shall keep a separate account of all sums received by them as head money upon emigrants from Europe, which shall be drawn by Warrant of the Governor, and applied for the relief of sick and destitute emigrants, and in forwarding them to their places of destination.

7. The orphan or deserted children of emigrants may be bound out to any fit person, males until the age of twenty one, and females until the age of eighteen years.

8. In such cases there shall be indentures of apprenticeship in two parts executed before a Justice, the master to be a party; they shall require the child to be taught to read, write, and cypher, and one part shall be filed with the Clerk of the Peace where the same is executed; but no such indenture shall be assigned without the consent of a Justice subscribed. The Overseers of the Poor shall be the guardians of such children, enforce the terms of the indentures, protect them against neglect and cruelty, and redress their wrongs.

9. The proper officer shall demand and recover the property of deceased emigrants, keeping a separate account thereof, and publishing it in the Royal Gazette.

10. The master of any vessel arriving from Europe shall previous to entry, deliver to the proper officer on oath a list signed by him of every passenger who embarked, died, or arrived in such vessel, with the names and probable ages of each deceased passenger, and an account signed as aforesaid, of the property of any such passenger, and shall immediately after entry, if required, deliver the same to the proper officer for safe keeping, under the penalty of fifty pounds for each offence, to be recovered in the name of the Treasurer or Deputy Treasurer.

11. Any passenger arriving in this Province, not receiving the provisions allowed by law, may recover compensation, not exceeding five pounds, from the master or owner, before a Justice upon sufficient evidence, to be levied by warrant of distress directed to any constable against the property belonging or attached to such vessel. Upon sufficient affidavit such Justice may cause the master to give security for payment of such compensation.

12. No vessel shall be cleared out or proceed to sea until all sums of money and penalties adjudged against the master under any Acts of the Imperial Parliament relating to Passengers, shall first have been paid.

(A)

Know all men that we are jointly and severally bound unto the Queen in the sum of seventy five pounds to be paid to Her Majesty.

Sealed and dated the day of , A. D. 18 .

Whereas , a passenger, of the vessel , is likely to become a public charge ;

Now the condition of this obligation is, that if the obligors shall indemnify the Province, or any place, or charitable institution therein, from any expenses which shall be incurred on account of such passenger within three years from this date, then this obligation to be void or else in force.

Sealed and delivered }
in presence of }

CHAPTER 22.

OF SICK AND DISABLED SEAMEN.

Section.

1. Support of sick and disabled Seamen.
2. Accounts, how and to whom rendered and filed, &c.
3. Tonnage duty on vessels entering ports.
4. Deduction from Seamen's wages to cover duty.
5. Separate accounts to be kept by Treasurer, &c.
6. Appointments of Commissioners for certain ports.
7. Hospitals, &c., to be under management and control of Commissioners.

Section.

8. May hire buildings, and have powers of Overseers.
9. Ships, boats, &c., subject to distress for non-payment of duty.
10. Overplus duty at one Port may be applied to another.
11. Penalties to be paid over, to whom.
12. Definition of various Ports.
13. Hospitals and lands, &c., at Saint John, vested in Mayor, &c., in trust.
14. Surplus moneys at Richibucto to be applied to purchase of lands, &c., for an Hospital.

1. All sick and disabled seamen, not paupers, belonging to any Parish or County, shall be supported by the Overseers of the Poor, or the Commissioners appointed as hereinafter mentioned, at the place where such seamen may be.

2. Such Overseers shall at least once in each year, render an account on oath of the expenses incurred by them in the support of such seamen to the General Sessions of the County in which the Overseers act, which account shall be audited by the Sessions, and when proved, shall be certified by the Clerk of the Peace, and transmitted by him to the Provincial Secretary, to be dealt with as other public accounts, and the amount due thereon shall be paid from the funds and in the manner hereinafter provided.

3. The master, owner, or consignee of every vessel that shall arrive at any port except Miramichi, Saint Andrews, and Bathurst, being of the burthen of sixty tons or upwards, shall pay to the Treasurer or Deputy Treasurer at the port of arrival the sum of one penny per ton for every ton at which such vessel shall be rated in the registry thereof; and at the

Ports of Miramichi and Saint Andrews, shall pay to the Deputy Treasurer of such ports respectively the sum of two pence per ton according to the register thereof; every vessel over twenty five tons burden arriving at the port of Bathurst shall pay at the rate of two pence per ton; which duty shall be paid at the time of entry, at the office of the Treasurer or Deputy Treasurer, before breaking bulk or discharging any ballast, but coasters shall pay such duty only once in each year on their first entry into any port, and other vessels shall pay the duty six times only in each year.

4. The master, owner, or consignee of any such vessel may deduct from the wages of every master, seaman, or other articled person, for the management and navigation of such vessel, one shilling per month to cover the amount of the tonnage duty hereby imposed.

5. Separate accounts shall be kept by the Treasurer and Deputy Treasurers of the moneys received and disbursed by them by virtue of this Chapter, who shall render them with their other public accounts.

6. The Governor in Council may appoint three or more fit persons to be Commissioners for sick and disabled seamen at the Ports of Saint John, Saint Andrews, Miramichi, Bathurst, Caraquet, Shippagan, Dalhousie, Richibucto, and Buctouche, respectively.

7. Such Commissioners shall have the exclusive management of all marine hospitals and pest houses for the use of sick and disabled seamen within their respective appointments, and may renew leases of lands on which any hospitals or pest houses may be erected, and make all necessary contracts for repairing and maintaining the same, and for the cure, care, attendance, and support of the patients therein; and may also make such regulations as they may deem advisable for the government of the same, for regulating the visiting of seamen ill of any infectious diseases, and for their removal to any pest house or other building.

8. Until proper buildings shall be erected at the several ports, the Commissioners shall hire and make use of any building which may be convenient for the purposes aforesaid, and shall have the same power with respect to sick and disabled seamen at their respective ports as the Overseers of the Poor have with respect to the ordinary poor of the Parish.

9. Upon refusal to pay the duties by this Chapter imposed, and the same being proved on oath before any Justice where such vessel shall arrive, he shall levy the duties by warrant of distress and sale of the boats, tackle, apparel, and furniture of such vessel, directed to any Sheriff or constable, rendering the overplus, if any, after deducting the costs and charges of distress and sale, to the master of any such vessel.

10. If there be any overplus of such duty at any one port in any one year, after the expenditure of so much thereof as may be necessary for the relief of sick and disabled seamen at such port, the Governor in Council, on being satisfied of the deficiency, may order the payment of such overplus, or so much thereof as may be necessary, to the Overseers of the Poor or Commissioners at such other port where the deficiency may be, to provide for the relief of sick and disabled seamen.

11. All penalties imposed by or under the authority of any of the provisions of this Chapter shall, when levied, be paid over for the purposes aforesaid to the Overseers of the Poor, or Commissioners, within whose jurisdiction the offence shall be committed.

12. For the purposes of this Chapter the waters, creeks, and places following, shall be Ports, that is to say, those lying between Point Escuminac and the line dividing the Counties of Gloucester and Northumberland coastwise, shall be the Port of Miramichi; those in the County of Charlotte, the Port of Saint Andrews; those lying between the head of the tide on the River Restigouche and Belledune River, the Port of Dalhousie; those between Belledune River and Pokeshaw River, the Port of Bathurst; those between Pokeshaw River and Pock-suidie Point, the Port of Caraquet; those between Pocksuidie Point and the line dividing the Counties of Gloucester and Northumberland coastwise, the Port of Shippagan; those lying between the boundary line dividing the Counties of Northumberland and Kent coastwise, and Chockpish River, the Port of Richibucto; and those lying between Chockpish River and Cocagne Islands, the Port of Buctouche.

13. The lands conveyed to the Corporation of the City of Saint John, situate in Sidney Ward of the said City, whereon the Marine Hospital and its enclosures now stand, together with the said hospital, enclosures, and appurtenances, are hereby

declared to be vested in the Mayor, Aldermen, and Commonalty of the City of Saint John, in trust, for the use of the said hospital inalienable, and shall forever remain and be appropriated solely for the use of such hospital for the Port of Saint John, and be under the exclusive control and management of the Commissioners for the said port.

14. Any surplus money raised in the Port of Richibucto for the support of such seamen may, with the authority of the Governor in Council, after the payment of any debts incurred for the support of such seamen at that port, be applied by the Commissioners to the purchase of land and the erection of a suitable building thereon for a marine hospital, and the same shall vest in them by the style of "The Commissioners of sick and disabled seamen at the Port of _____," with all the powers of suing and defending necessary for the protection of the same.

CHAPTER 23.

OF CHARLOTTE COUNTY EXEMPTIONS FROM DUTIES.

Sections.

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| 1. Drawback of Duties allowed on landing
Lumber at certain foreign ports. | 2. Bond to be taken on exportation.
3. Proof necessary to obtain drawback. |
|--|---|

Sections.

1. The proper officer of the Treasury Department at the port of his residence shall grant a drawback of all the export duty paid or secured to be paid under the Chapter relating to the export duty on timber, hacmatack, and other lumber, shipped from the County of Charlotte to any place in the West Indies, to any British possession in the Gulf of Mexico or South America, or to any French or Dutch possession in South America, and also a drawback of the duties paid or secured for the support of the light houses, buoys, and beacons, by any vessel on her return to the said County from any of the said places after having landed the same.

2. The proper officer of such port shall take a bond to the Queen in double the amount of the duties, with a sufficient surety for the payment of the same in one year from the date thereof, which on compliance with the provisions of this Chapter shall be by him cancelled.

3. The evidence of the exportation and landing of such lumber shall be the affidavit of the master as follows:—

'I, A. B. do swear that the following lumber, to wit,
' , is now actually on board the , whereof I am
'the master, bound for , and that the same is intended
'to be landed at , (*as the case may be*).'

And the owner or his agent shall, to the best of his belief, subscribe an affidavit of the ownership of such timber, or of the agency aforesaid, and of the truth of the master's affidavit; but before the drawback or remission of duties shall be obtained, the owner, shipper, or agent of the lumber, shall produce to the proper officer of the port of shipment, within one year from the exportation, a certificate under the hand of the principal officer of Customs or Revenue of the place to which the same was exported, or of two resident Merchants there, that the lumber has been actually landed, and at the same time shall subscribe the following affidavit:—

'I, A. B. do swear that the lumber exported by me (*or by*
'*A. B.* the owner, *as the case may be*), in the vessel called
'the , whereof was master, a certificate of the
'landing of which is now by me exhibited and left with the
'proper officer, has to the best of my belief been actually
'landed at .'

CHAPTER 24.

OF WRECKED PROPERTY.

Section.

1. Commissioners to be appointed, sworn, &c.
2. To take charge of wrecked property over £25.
3. May employ assistance, check disturbances, &c. Penalty for disobeying them.
4. To take inventory and deliver property to owner, &c. on payment of expenses, and arbitration, if disagreement, &c.
5. Penalty for intermeddling with property.
6. Commissioners to publish particulars of property. Penalty for neglect.
7. When Commissioners may sell property sufficient to pay duty, &c.
8. When perishable property may be disposed of.

Section.

9. Disposing of property when unclaimed for a year.
10. Mode of dealing with Commissioner neglecting to comply with provisions of last Section.
11. Proceeding with property found on shores, &c. of City and County of Saint John.
12. Justice to try question as to wrecked property by Port Wardens and two freeholders.
13. If decided in favour of Commissioners Sheriff to deliver property to them on payment of expenses of trial, &c. Commissioners to be repaid.
14. If otherwise property to be returned by Sheriff to person from whom taken, and Commissioners liable for costs.

1. The Governor in Council may appoint in any County Commissioners of wrecked property, who before acting shall

be sworn to the faithful discharge of their duties. If more than two Commissioners be appointed, not less than two of them shall act on any occasion calling for their services, and any fees or penalties as hereinafter provided, receivable or payable by them on any such occasion, shall be received or paid by equal division among those so acting.

2. The Commissioners shall immediately on information of a shipwreck, or of wrecked property above the value of twenty five pounds, repair to the place, and if not in the lawful custody of any person, or if required by the owner or other person interested therein, shall take charge thereof for the owner.

3. The Commissioners may employ as many persons as they may require to preserve and secure such property, and they shall have full power to suppress all tumults and disturbances; any person disobeying the lawful order of such Commissioners for the suppression thereof shall forfeit for each offence ten pounds, to be recovered in the name and to the use of the Commissioners.

4. The Commissioners when required to act shall take an inventory of all the property that shall come to their possession, and at the request of any person interested therein shall verify the same by affidavit, and deliver a copy thereof, together with the property, to the person entitled thereto, being first paid a reasonable compensation for their services and just claims; but no person other than the Commissioners shall receive any compensation for securing the said property, unless taken before it came into their hands, and any dispute in relation thereto shall be submitted to three arbitrators, one to be chosen by each party, and they to choose a third; if either party omit for six days to choose, the other party may name both, the award to be conclusive.

5. Any person intermeddling with such property after the arrival of the Commissioners, unless with the consent of such Commissioners or the person interested, or his agent, shall forfeit a sum not exceeding two hundred and fifty pounds for every offence, to be recovered in the name of the Commissioners, or party interested, to the use of the party suing.

6. If no person interested be present on the arrival of the Commissioners, they shall publish as extensively as possible the particulars of the shipwreck and of the property found,

with such other information as may be obtained, and neglecting to do so shall forfeit one hundred pounds, to be recovered at the suit and to the use of the person interested in such property.

7. The Commissioners may, within thirty days after taking charge of any such property, sell so much thereof by public auction as shall be sufficient to cover all duties and other charges and expenses thereon, first giving fourteen days public notice of such sale in one of the Newspapers of the County where the property may be, or if none be published, in one printed in the County nearest thereto, and by handbills posted up in at least three of the most public places in such County and in the vicinity of the place appointed for such sale, on the morning of the day for which it shall be appointed to take place.

8. If any such property be perishable, and no person interested therein shall claim it within thirty days after it shall have been taken into custody, and such particulars published by the Commissioners, they shall advertise and sell the same as in the last preceding Section.

9. If no person interested in such property shall appear within one year after it shall have been published as aforesaid, and establish his claim thereto, the Commissioners shall lodge with the Treasurer or the Deputy Treasurer, a copy on oath of the inventory first taken, or if sold, an account of the sales and of all moneys paid by them for any duties, charges, or expenses occasioned by such property, and pay the balance thereof, and deliver over any of such property remaining in their hands for the use of the Province, first deducting or being paid such compensation for their services as shall be just, to be ascertained in case of disagreement between the Commissioners and the said Treasurer or Deputy Treasurer, by arbitration as provided by this Chapter.

10. If any Commissioner shall for the space of thirty days after the expiration of the year limited, neglect to render a copy of the inventory and the accounts, or to pay over the balance and deliver the property remaining, the Attorney General shall, at the instance of the Treasurer or Deputy Treasurer, prosecute therefor in Her Majesty's name for the use of the Province.

11. Where wrecked property shall be found on the shores, or in the water within five miles of the City and County of Saint John, in the hands of any person within the same not being a person interested therein, or his agent, and such person shall upon demand refuse to deliver the property to the Commissioners for the said City and County, they may apply to a Justice for the said City and County, who on affidavit of the facts shall issue a warrant under his hand commanding the Sheriff of the City and County to seize and safely keep all such property, which warrant the Sheriff shall execute, and with the assistance of two freeholders shall make a true inventory of the property seized, and return the same under their hands, and the property shall remain in the custody of the said Sheriff.

12. Upon such return the Justice shall summon not more than five nor less than three of the Port Wardens, and two freeholders of the City of Saint John, to meet at a time and place by him to be named, giving at least ten days notice thereof to the person from whom the property was taken, and if he shall not appear, or appearing shall claim the said property, or a lien thereon, the Justice shall swear the Port Wardens and freeholders to try the question of property or lien, as the case may be, and shall examine on oath the Commissioners and parties and any witnesses by them produced; and the Port Wardens and freeholders shall thereupon certify whether such property was found by such person wrecked, and if so, what amount they assess for such salvage, costs, and expenses.

13. On payment by the Commissioners to the Sheriff of the amount so assessed, and all fees and expenses attending such inquisition, he shall deliver such property to the Commissioners, to be by them held and disposed of in the same manner as if they had taken possession thereof under the second Section of this Chapter, and the sums so paid by the Commissioners shall be repaid with interest, together with all other sums to which they may be entitled, before they can be required to deliver over such property.

14. If the Port Wardens and freeholders shall certify that such property was not found by the person from whom it was taken, as wrecked or abandoned, the Sheriff shall restore the

property to such person, and the Commissioners shall be liable to the Sheriff for all costs and fees due upon the proceedings had thereon.

CHAPTER 25.

OF THE IMPORTATION OF BOOKS AND PROTECTION OF THE BRITISH AUTHOR.

Section.	Section.
1. Books imported duty free, except foreign reprints, &c.	3. Penalty for importing or selling reprints, forfeiture, &c.
2. Duty on such reprints, mode of collection, and transmission.	4. Reprints may be stamped on entry.

1. All books may be imported duty free, except foreign reprints and pirated copies of books first composed, written, or published in any part of the United Kingdom, and protected by the Law of Copyright there in force.

2. There shall be paid an ad-valorem duty on the bona fide price of such reprints of twenty per cent., but not on newspapers or other weekly periodicals, nor on copies of the said works if published bona fide in any part of the United Kingdom ; such duty to be collected under the regulations made to extend the Imperial Acts relating to the Law of Copyright to this Province ; and shall be remitted by the Governor as Her Majesty's Home Government may have ordered or shall direct, for the use of the author or party entitled.

3. Whoever shall import for use, sale, or hire, any such reprint, without paying the duty, or shall knowingly sell, publish, or expose for sale, or let to hire, or have in his or her possession for sale or hire any such reprint, shall forfeit for each offence the sum of five pounds and double the value of such reprint, two pounds to the use of any revenue officer who may seize the same, and the remainder of the penalty to the use of the copyright proprietors ; all such reprints shall be forfeited, seized, and disposed of as other revenue seizures, and the net proceeds to be applied in the same manner as in case of penalties ; all moneys received for the use of such proprietors shall be remitted as in the second Section.

4. The officer passing any reprint, at the entry thereof may stamp the same. The form of all stamps to be furnished by the Treasurer to the officers requiring the same.

CHAPTER 26.

OF THE MANAGEMENT OF THE TREASURY DEPARTMENT.

Section.

1. Treasurer to have general superintendance of Treasury Department.
2. Appointment of Deputy Treasurers, their bonds, times of rendering accounts.
3. When Treasurer or Deputies sick or absent may appoint Deputies; responsibility, &c.
4. Interim discharge of duties of deceased Deputy Treasurer.
5. Treasurer, Deputies, and other officers, to be sworn.
6. Salaries of Treasurer and Deputy Treasurers.

Section.

7. Oaths to be administered by Treasurer and other officers, when.
8. Treasurer to report to Auditor on Deputies' Accounts.
9. Account Books, &c., to be furnished to Deputies.
10. Revenue Officers under control of Treasurer and Deputies respectively; their duties.
11. Persons employed in Treasury department to be deemed officers of that department.
12. Limitation.

1. The Treasurer shall have the management of the Treasury Department throughout the Province, and the collection of all duties which may be imposed by any law for raising a Revenue, subject to the control of the Governor in Council, and shall execute a bond to the Queen with at least two sureties, to the satisfaction of the Governor in Council, in a sum not less than ten thousand pounds, conditioned for the faithful discharge of his duties.

2. The Governor in Council may appoint fit persons to be Deputy Treasurers in places where they may be required, who shall respectively execute bonds to the Queen with at least two sureties, to the satisfaction of the Governor in Council, for the faithful discharge of their duties, that is to say, the Deputy Treasurers for Saint Andrews and Miramichi, each in a sum not less than four thousand pounds; for Dalhousie not less than three thousand pounds; for Richibucto and Bathurst respectively, not less than two thousand pounds; for West Isles not less than one thousand pounds; for all other places not more than four hundred pounds, or such less sum as the Governor in Council shall direct. The Deputy Treasurers now in office, and those who may hereafter be appointed, shall be accountable to the Treasurer for all money at any time received by them as such, and shall pay or remit the same as he may direct, and the accounts shall be annually closed on the thirtieth day of November; and the respective Deputy Treasurers shall forward to the Treasurer on or before the tenth day of December in every year their accounts, duly attested, with the necessary vouchers.

3. The Treasurer and Deputy Treasurers in case of sickness or necessary absence from the County, may respectively appoint fit persons to be their Deputies, for whose acts they and their sureties shall be responsible ; and the Deputies shall have the same power as the Treasurer and respective Deputy Treasurers, but shall not receive any other compensation for their services than the proportion allowed by law of any seizures they may make, or of any penalties and forfeitures which may be incurred during their continuance in office.

4. In case of the death of any Deputy Treasurer except in the City of Saint John, the tide waiter or person next in authority shall discharge the duties of the office until another person be appointed in his place, and while so acting he shall receive the emoluments and be responsible for the duties of the office.

5. The Treasurer, Deputy Treasurers, and Revenue Officers, on admission to office, shall make affidavit to the following effect :—

‘I, A. B. do swear faithfully to execute the duties of my office, and that I will not receive therefor any fee, gift, or reward, other than my salary and lawful allowances.—So help me God.’

6. The salary of the Treasurer shall be five hundred pounds per annum. Every Deputy Treasurer may retain for his services, from the end of the last fiscal year, ten per cent. upon all the duties collected by him, not exceeding in any one year two hundred pounds.

7. The Treasurer and the respective Deputy Treasurers, and any Clerks of the department on their names being published in the Royal Gazette, are empowered to administer the oaths required by the revenue laws.

8. The Treasurer as soon as practicable after the annual returns of the Deputy Treasurers are made, shall bring under the notice of the Provincial Auditor any overcharges, omissions, or errors which may appear in their accounts.

9. The Treasurer shall furnish the respective Deputy Treasurers with the necessary Account Books, to be kept agreeably to the system prescribed by him, together with such printed forms as may be requisite for the conduct of their business in making out their accounts and returns, and on

receipt thereof they shall act strictly in conformity therewith. The books shall be a public record of all the transactions entered therein relating to the department.

10. All revenue officers shall be under the direction of the Treasurer or respective Deputy Treasurers at the places for which they may be appointed, and shall attend to the unloading of vessels and vehicles with dutiable goods, and shall not allow them to be unloaded from vessels or vehicles coming within their respective districts without a permit from the proper officer; and if any revenue officer shall discover any goods therein not duly entered, or if any such goods shall be found by any of such officers unloaded from such vessel or vehicle, or illegally imported, in every such case such goods shall be forfeited.

11. Any special service required to be performed by the Treasurer or any Deputy Treasurer at any time or place, may be performed by any person employed by him, and shall be in all respects the same as if performed by such officer.

12. This Chapter shall continue in force until the thirtieth day of March one thousand eight hundred and sixty two.

CHAPTER 27.

OF DUTIABLE GOODS, PAYMENT OF DUTIES, AND ENTRIES.

Section.	Section.
1. Dutiable goods, to what subject.	11. Contents of entry. Oath thereto. Goods ^{so} may be appraised, taken and sold. Application of proceeds.
2. What spirits subject to forfeiture.	
3. Coasting trade.	
4. Masters of vessels to report, &c., when. Penalty, &c.	12. When entry may be made by Bill of Sight, and further proceedings.
5. Consignee or owner of goods imported inland to report, when. Penalty, &c.	13. Imported goods to be brought to places of entry; increased or reduced, how.
6. Duty of officers to board vessels. Concealed goods forfeited. Who may be stationed in vessels, &c.	14. Inland importation subject to the same rules as sea importation. If improperly removed, forfeited with vehicle, &c.
7. Before commencing to load, what clearance inwards. Penalty. Stiffening order.	15. Vessel's surplus stores, how disposed of.
8. Importer to enter goods, when. Goods may be sold, when.	16. Articles for Army, &c., exempted from duty.
9. Bill of entry, when to be warrant for landing. Landing before entry, forfeiture.	17. Articles seized and sold subject to duties, &c.
10. Entry not valid, when. Goods not rightly entered, forfeited.	18. Time when duties payable.
	19. Goods liable to duty, how weighed or measured.
	20. Limitation.

1. All goods imported or to be imported, subject to duties, or transported by sea from one place to another within the Province, are hereby made subject to the rates, restrictions,

penalties, and forfeitures prescribed in this Chapter and the other Chapters relating to the collection and protection of the Revenue.

2. All spirits (except in bottle and imported from the United Kingdom or from a warehouse in bond in any British Colonial possession) which shall be imported in casks or packages of less size than to contain one hundred gallons, or in other than decked vessels of not less than thirty tons register, or that may be found on board thereof within the limits of any port of entry, shall be forfeited, seized, and condemned as other goods liable to forfeiture.

3. The Governor in Council may make such regulations for carrying coastwise, or removing any goods for shipment in British vessels within the Province, as shall be expedient, and all goods laden, water borne, or unladen contrary thereto, shall be forfeited.

4. The master of every vessel laden or in ballast shall within twenty four hours after her arrival, and before bulk broken, report on oath in duplicate under his hand to the proper officer of the department at or nearest the place of arrival, and if laden, such report shall contain the particular marks, numbers, and contents of all the different packages or parcels of goods on board, the particulars of such goods as are stowed loose, the names and number of passengers (if any), to the best of his belief, the place where such goods were taken on board, the name of every owner and consignee of such cargo where the same is intended to be landed, whether and in what cases the vessel has broken bulk in the course of the voyage, whether any and what part thereof has been taken from such vessel after her arrival, what part may be intended for exportation in the same vessel, and what surplus stores or stock remain on hand; and if required he shall produce to the officer every Bill of lading, or a true copy thereof, for every part of the cargo; and if he shall fail to make such report, or shall make a false report, or shall land any part of the cargo before a warrant is granted therefor, or shall not produce such Bill of lading, or copy, or if such Bill of lading or copy be false, he shall in each case forfeit the sum of one hundred pounds.

5. The person in charge, or the owner, or consignee of all goods imported by land or inland navigation, shall as soon as

practicable, and before bulk broken, report on oath in duplicate under his hand to the proper officer of the department at or nearest the place of importation, which report shall contain the marks, numbers, and contents of the different packages or parcels of goods, and the number and description of the horses and cattle, to the best of his belief, and the names of the places from which such goods were imported, and of every owner and consignee of the same, and where they are intended to be taken; whether any and what part of the goods have been unloaded after importation; and if he, after such importation, shall not make such report, or shall make a false report, or shall land or dispose of any part of the goods before a warrant granted therefor, such person shall in every case forfeit the sum of twenty five pounds, together with the goods aforesaid.

6. Any officer of the department may board any vessel at any time and place, and stay on board until all the goods shall have been duly delivered, and shall have free access to every part of the vessel, with power to fasten down hatches, and mark and secure any goods on board; and if any part thereof, or any box or chest be locked and the keys withheld, the officer may open the same; all goods found concealed shall be forfeited; and if any lock, mark, or seal on any goods on board be wilfully opened, altered, or broken before the delivery thereof; or any of the same be secretly conveyed away, or the hatches so fastened down be opened, the master shall forfeit one hundred pounds; and the proper officer may station persons on board of vessels within the limits of this Province, whom the master shall provide with a comfortable place under deck in the steerage or forecastle, with room for bedding, under the penalty of ten pounds for every neglect or refusal.

7. Before any goods or ballast are taken on board any vessel to be carried to any place within or without the Province, the master shall deliver to the proper officer at the place where the vessel may be, a certificate of the clearance inwards of the cargo imported, and shall forfeit in every case of neglect one hundred pounds, but the proper officer may issue a stiffening order for such goods or ballast, to be laden before the cargo be discharged, as may be specified therein.

8. All goods which shall not be duly entered within three

days after the arrival of the vessel importing them (not being intended for exportation in the same vessel), and any small quantity of goods which shall remain after discharging the cargo of any vessel, and any small packages or parcels of goods, may be conveyed by the proper officer aforesaid to a warehouse, although such three days shall not have expired, to be kept until due entry can be made; and if the duties thereon shall not be paid or secured within three months after such three days, together with all charges for removal and warehouse rent, the goods shall be sold, and the proceeds applied first to the payment of freight and charges, then to the duties, and the overplus (if any) shall be paid to the owner of the goods.

9. Any person entering goods inwards, or for payment of duty upon taking the same out of the warehouse, shall deliver to the proper officer a bill of entry of such goods, containing the name of the master, and of the vessel in which, and the place whence they were imported, the description and situation of the warehouse, if to be warehoused, the person in whose name they are to be entered, the quantity and description of the goods, and the number, denomination, and description of the packages containing the same, and in the margin of such bills shall delineate the marks and numbers of such packages, and pay down or give security for any duties which may be payable upon such goods, and he shall also deliver at the same time one or more duplicates of such bill, the particulars thereof shall be written and arranged in such form, and the number of duplicates such as the proper officer may require; and such bill signed by the proper officer shall be the warrant for the landing or delivery of such goods; all goods which shall be landed from any vessel before such entry inwards, and such warrant obtained for the landing of the same, shall be forfeited, and any person concerned in receiving or concealing such goods, or in landing them without such warrant, or who shall make an untrue entry of the same, shall for each offence forfeit one hundred pounds.

10. No entry or warrant for the landing of goods, or for taking goods out of any warehouse, shall be valid unless the particulars of the goods and packages in such entry shall correspond with those purporting to be the same in the report of

the vessel, and in the certificate or other document, where any is required, by which the importation or entry of such goods is authorized, nor unless the goods shall be properly described in such entry by the denominations, and with the characters and circumstances according to which they are charged with duty; and any goods taken or delivered out of any vessel or warehouse, or for the delivery of which, or for any order for the delivery of which from any warehouse demand shall have been made, not having been duly entered, shall be forfeited.

11. If the goods in such entry be charged to pay duty according to number, measure, or weight, the same shall be stated in the bill of entry, and if the goods in such entry be charged to pay duty according to the value, the same shall be stated therein on oath of the importer, or owner, or authorized agent, before the proper officer, written upon the bill of entry and signed by him; any person making such entry not being such importer, owner, or agent, shall forfeit one hundred pounds; such oath shall be binding upon the person, by or on behalf of whom the same shall be made, and shall be to the effect following :—

' I A. B. do swear that I am the importer or owner (or
' authorized by the importer) of the goods contained in this
' entry, that the several quantities and numbers are correctly
' stated, and that those goods subject to duty, according to the
' value thereof, cost the sum of currency, and no more,
' to the best of my belief. A. B.

Sworn before me this day of }
A. D. 18 . }

C. D., Treasurer, (or as the case may be.)

But if such goods shall appear to have been invoiced below the real quantity, number, or value thereof, at the place whence the same were imported, or if the value or quantity is not known, the proper officer may cause such goods to be examined, and if necessary, weighed, measured, or appraised, by one or more competent persons appointed or to be appointed by the Governor in Council, and the person appraising shall certify to such officer the true quantity, number, and value of such goods, which shall be deemed the true value, number, and quantity, and upon which the duties shall be charged; and where goods are not entered according to the true quantity,

number, and value, at the place whence they were imported, the proper officer may take such goods for the use of the Province, paying to the importer or owner of such goods the value thereof as stated in his entry, with an addition of ten per cent., and also any duties which may have been paid thereon, and such goods shall be disposed of for the benefit of the Province ; should the proceeds of such sale exceed the sum paid, together with the duties and charges incurred, one moiety of the overplus shall be given to the officer who took the goods, and the money retained for the benefit of the Province shall be paid to the Treasurer, and carried to the account of ordinary duties.

12. If the importer of goods shall make oath before the proper officer that he cannot, for the want of full information, make perfect entry thereof, the proper officer shall receive an entry by bill of sight, according to the best description which can be given, and grant a warrant in order that the same may be landed or secured to his satisfaction, at the importer's expense, which may be seen and examined by him in the presence of the proper officer, and if within three days after such goods are landed the importer shall not make a perfect entry, and pay all duties thereon, the goods shall be taken to the warehouse ; and if the importer shall not within one month after such landing make perfect entry of such goods, and pay the duties thereon, together with the charges of removal and warehouse rent, the same shall be sold for the payment thereof, and the overplus(if any)shall be paid to the owner of the same.

13. All goods which shall be imported into any place, except where a Treasury Office may be established, shall be forfeited, and the Governor in Council may by proclamation diminish or increase the extent or number of places for the entry of goods.

14. The duties imposed by law shall be ascertained, levied, and recovered upon all goods imported by land or inland navigation in the same manner and under the same rules, restrictions, and forfeitures as the duties on like goods imported by sea ; and all goods imported contrary hereto, or removed after imported from the place appointed for the examination of the same, before the duties thereon are paid or secured, shall be forfeited, together with the vessel or vehicle and the animals by means of which such goods were imported or removed.

15. The overplus stores of every vessel arriving at any place shall be subject to the same duties, restrictions, and regulations as similar goods are subject to when imported ; but if the quantity, number, or description of such stores be not excessive, or be unsuitable, the proper officer may permit them to be warehoused or secured for the future use of such vessel, and reshipped as the stores thereof without payment of duty.

16. Any goods at any time subject to duties, which may be imported expressly for the use of Her Majesty's Navy, Army, or Ordnance, or supplied by any resident merchant or trader for such use, and delivered to an authorized officer of Government, shall be exempted from duties, and if the duties thereon have been paid by such merchant or trader, he shall receive them back, but before the goods shall be exempted, the officer of Government shall make and subscribe an affidavit before the proper officer, that they are imported and received by him expressly for such use, and if supplied by such merchant or trader, he shall, by a like affidavit, prove that the goods mentioned therein were delivered to such Government officer, and if the duties had been paid thereon that they were so paid ; and such officer shall by a like affidavit prove his receipt of the goods for such use.

17. The purchaser of any goods liable to duties, which may be sold as forfeited, shall within twenty four hours after the purchase, and before any part thereof shall be removed, report such goods in writing on oath to the proper officer at the place nearest the sale, and pay the duties thereon, as if such goods had been legally imported ; and upon the exportation of such goods, the purchaser shall be entitled to the same drawbacks as in other cases of exportation, under the like regulations and restrictions ; where goods imported at any time, or purchased from any resident merchant or trader, for the use of Her Majesty's Army, Navy, or Ordnance, upon which no duties have been paid, or the duties may have been repaid, shall at any time be sold by order of the Government, the purchaser shall report the same on oath, pay the same duties thereon as if imported, be entitled to the same drawbacks upon exportation, and be subject to the same rules and provisions ; and any purchaser of any such goods who shall refuse or neglect to report the goods so purchased, and pay the duties thereon, shall, if

the same cannot be found, forfeit one hundred pounds, and in lieu of such penalty, if the whole of the same are found, they shall be forfeited.

18. All duties at any time imposed on goods shall be paid either at the time of importation, or, if warehoused, prior to removal therefrom, unless taken from the warehouse for exportation or removal to any port within the Province.

19. The quantity of all goods liable to duties according to the measure or weight thereof, shall be determined by one or more sworn gaugers and weighers, to be appointed by the Governor in Council, who shall ascertain the quantity of all liquors and molasses by Gunter's calipers, and the weight of all goods by proper weights and scales to be provided by the Treasurer at the expense of the Province; all dutiable liquors and molasses shall, at the expense of the owner or importer, be placed in a convenient position to be gauged and weighed, who shall also furnish such assistance as may be required in weighing and removing the same.

20. This Chapter shall continue in force until the thirtieth day of March one thousand eight hundred and sixty two.

CHAPTER 28.

OF WAREHOUSING GOODS.

Section.

1. Goods may be warehoused. Mode of appointing warehouse, taking bonds, paying duty, &c.
2. Forfeiture for taking goods from warehouse, when.
3. Goods to be stowed, warehoused, &c., how.
4. Forfeiture for fraudulent concealment and removal.
5. Goods, &c. not cleared in certain time to be sold.
6. Bill of entry to be delivered and duties paid, when.
7. When bond to be cancelled.
8. When cargoes of Steamboats may be warehoused.

Section.

9. Goods may be removed from one warehouse to another.
10. New bonds may be taken on transfer of warehouse goods.
11. Penalty for not reporting at Saint John vessels bound for Fredericton, and providing officer with accommodation.
12. When warehouse goods may be delivered as ship stores.
13. Officer may allow change in package of goods.
14. Punishment for breaking open, &c. warehouse goods.
15. When drawback allowed.
16. Limitation, *

1. The importer or consignee of any dutiable goods may warehouse them, and before delivery pay duties from time to time on such as are sold or entered for home consumption, the same shall be entered for warehousing in a warehouse to be appointed by the proper officer, approved of by the Governor in Council, and notified in the Royal Gazette, the party

interested first giving bonds with two sureties to the satisfaction of such officer, in double the amount of the duties to which the goods may be liable, conditioned for the payment of the duties or the exportation of the goods, and that no part shall be taken out of such warehouse until cleared on due entry and payment, or for exportation or removal to another port, and that the whole of such goods shall be cleared from the warehouse, and the duties upon the deficiency, if any, of the quantity according to the first entry, be paid within two years from the date of the bond.

2. If any goods entered for warehousing shall not be duly deposited, or shall be taken from the warehouse without due entry or clearance, or having been cleared for exportation or for removal to another port in the Province, shall not be duly carried therefrom and shipped, or shall afterwards be relanded without permission from the proper officer, they shall be forfeited.

3. All warehoused goods shall be stowed, and the warehouse secured, opened, and visited at such times, and in presence of such officers, and under such rules as the proper officer may direct. Goods intended for the warehouse shall be carried to it, or taken out for exportation, or for removal to another port in the Province, under the like rules.

4. Warehoused goods fraudulently concealed in or removed from the warehouse shall be forfeited, and any importer or owner of such goods, or person in his employ, who shall fraudulently open such warehouse, or gain access to such goods, shall forfeit for every such offence fifty pounds.

5. All warehoused goods which shall not be cleared for exportation or home consumption within two years, and surplus stores of vessels within one year, may be sold by the proper officer, and the proceeds applied to the payment of duties, warehouse rent, and other charges ; and the surplus (if any) shall be paid to the owner.

6. Upon the entry of goods to be cleared from the warehouse, a bill of entry shall be delivered as in case of goods entered to be landed, as far as applicable, and if for home consumption, shall at the time pay the full duties thereon, not to be less in amount than what corresponds with the entry made at the landing of the same ; and if the entry be for exportation, or

removal to any other port in the Province, and the goods be deficient in quantity as compared with such first entry, the deficiency shall be entered, and the full duties paid thereon before the same shall be delivered.

7. Where the whole of the goods warehoused under any entry shall be cleared from the warehouse, and the same or any part thereof have been entered for exportation, or for removal to another port in the Province, the bond given for the duties on such goods shall not be cancelled unless the certificate of the landing of such goods shall be produced within a reasonable time, signed by the principal officer of revenue or excise if the goods be landed at a place within the British dominions, or by the British Consul if not so landed.

8. The proper officer may allow the master of any steam-boat, on the like report as required in the case of other vessels, to deposit her cargo in a warehouse to be provided by the owner and approved of by the proper officer, on giving a bond with two sufficient sureties for the payment of the duties on all goods warehoused therein, and all such goods shall be subject to the same provisions as if they had not been taken out of the steamboat, and there shall be the same lien for freight or other charges as if the same had not been so deposited ; but no rent shall be payable for such goods if the owner or consignee shall make entry of and remove the same within three days of their deposit.

9. Warehoused goods may, by permission of the proper officer, be removed to any other warehouse in the same place, subject to the same conditions as when in the original warehouse.

10. The proper officer may take fresh security from any bona fide purchaser of warehoused goods, in like manner as in the first instance, and may thereupon cancel the original bond, or exonerate the obligors to the extent of the fresh security, and so in like manner from time to time upon a further transfer, but none to be allowed unless the goods be taken out within the time and in the manner by law allowed.

11. The master of any vessel arriving with a cargo at Saint John bound for Fredericton, who shall not report at the Treasurer's office, and, before proceeding up the River, take on board an authorized officer, to remain until such vessel is

entered at Fredericton, shall forfeit one hundred pounds, and if such master shall not provide room under deck in the fore-castle or steerage for the officer's bed, with good and sufficient food, he shall forfeit for each offence the sum of ten pounds.

12. Warehoused goods may be delivered as stores for any vessel of the burthen of fifty tons or upwards, bound on a voyage beyond the Province, the probable duration of which out and home shall not be less than thirty days, proof being first made by affidavit of the master or owner to the proper officer that the stores are necessary and intended for the voyage.

13. The proper officer may, under such restrictions as he may at any time prescribe, allow the owner of any warehoused goods to make such changes in their package as may be necessary for their preservation, disposal, or shipment.

14. Whoever shall break open or illegally gain access to any goods in any such warehouse, shall be guilty of a misdemeanor, and be liable to fine or imprisonment, or both, at the discretion of the Court wherein he may be convicted.

15. Whoever shall export by sea any goods on which the duties have been paid, shall be allowed a drawback of the whole amount of such duties, if the goods upon which it is claimed shall be of the value of at least fifty pounds on the first entry.

16. This Chapter shall continue in force until the thirtieth day of March one thousand eight hundred and sixty two.

CHAPTER 29.

OF SEIZURES, FORFEITURES, AND MODES OF PROCEEDING.

Section.

1. Punishment for smuggling.
2. Landing goods after report of exportation, and forfeitures.
3. Vessels with dutiable goods entering other than appointed ports.
4. Liability of vessels, vehicles, &c. to forfeiture, and persons to penalties, when.
5. What officers authorized to seize and report.
6. Vessels and goods deemed condemned, when.
7. Prosecutions under twenty five pounds before whom.
8. Goods seized may be given up on security and valuation.
9. Appraisement how returned; claimants to give security for costs.
10. Condemned goods to be sold at auction.

Section.

11. Prosecution for penalties, at what time & in whose name; averments and evidence.
12. Application of proceeds.
13. Proper officer may search in the day time suspected houses for smuggled goods.
14. Writ of assistance.
15. Assaulting officers, &c.
16. Onus probandi on whom.
17. Capias may issue for penalty and bail be required.
18. What process on filing information instead of a capias.
19. One month's notice to officer before action, and contents thereof.
20. Action to be brought, when. General issue and other proceedings.
21. Costs where verdict for claimant. Probable cause, &c.

Section.	Section.
22. Tender of amends. Verdict for defendant, and costs.	25. Governor in Council may restore seized goods, &c.
23. Damages and costs where certificate of officer acting under probable cause.	26. A nolle prosequi may be entered.
24. Goods liable to seizure for what time.	27. Export bonds, when may be cancelled.
	28. Limitation.

1. Whoever shall smuggle any goods subject to duty shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding twelve months, or pay a fine not exceeding one hundred pounds, at the discretion of the Court.

2. All goods reported for exportation and shipped to obtain the drawback, which have been landed or relanded contrary to law, together with such of the said goods as may be on board at the time of discovering the intended fraud, shall be forfeited; and if discovered within one year thereafter, or after the payment of any drawback, the owner or consignee of such goods, and the master or owner of the vessel, shall severally forfeit one hundred pounds.

3. Any vessel with dutiable goods on board which shall enter any place other than a port of entry (unless from stress of weather or other unavoidable cause) shall be forfeited with all the goods on board, except those of an innocent owner or consignee.

4. Any vessels or boats under fifteen tons, by which any goods liable to forfeiture shall be imported, and all vehicles, horses, and cattle made use of in the removal of any such goods, shall be forfeited; and whoever shall be concerned in the unshipping, landing, removal, harbouring, concealing, or have the possession of any such goods, knowing the same to be smuggled, shall forfeit treble the value thereof, or the penalty of one hundred pounds, at the election of the prosecutor, and the averment, in any proceeding for the penalty, that the prosecutor has elected to sue for the sum mentioned, shall be proof of such election.

5. All officers of the revenue, persons employed to seize and secure goods liable to forfeiture, with the assent of the proper officer, whether given before or after the seizure, Sheriffs, and Justices, together with persons residing more than ten miles from the residence of any proper officer appointed by any Justice, shall seize and secure any goods liable to forfeiture, and report to the proper officer of the nearest place where the same may be secured.

6. All vessels not exceeding one hundred tons register, boats, vehicles, and goods, which may be seized as liable to forfeiture, shall be deemed to be condemned as so liable, unless the owner or person from they were seized, or his agent, shall within one month from the day of seizure, put in a claim in writing, on oath, to the proper officer at the nearest place to where the seizure was made, stating the owner's residence and occupation, and that he was at the time of seizure bona fide owner of the goods, and if the agent, to the best of his belief, and if the same be live stock, or other perishable goods, within forty eight hours from such seizure; and such goods shall be sold at public auction after twenty four hours notice.

7. Prosecutions for goods seized and claimed, under the value of twenty five pounds, shall be had before two Justices residing near the place of seizure, who are required to keep a book in which they shall enter all causes tried before them under this Chapter.

8. When goods or chattels are seized as forfeited, the proper officer may deliver them up to the claimant, on his executing a bond to the Queen, with two sureties to be approved of by him, to answer double the value in case of condemnation; and where there are conflicting claims the person from whom the property was seized shall be deemed the rightful claimant, but if he neglect to give the requisite security, any other claimant giving the same shall be preferred; and such bond shall be kept by the proper officer, and if the goods shall be condemned the value shall be paid to the proper officer, who shall thereupon cancel the bond; which value shall be appraised by two persons nominated by a Justice, at the instance of the proper officer, and the expense of the valuation paid out of the proceeds of the seizure.

9. Such valuation shall be forthwith returned in writing, with any claim, to the Clerk of the Crown, and no writ of appraisement or proclamation shall be necessary, but a copy of the information for the seizure shall, if there be a claim, be served on the claimant or his attorney, with notice to appear, plead, and prosecute his claim within twenty days, or judgment will be entered by default; but no claim shall be valid until he shall have entered into a recognizance before a Judge of any of the Courts, or a Justice, with two sureties to be ap-

proved of by the proper officer, to prosecute his claim, and pay the costs if found against him, which recognizance shall be forthwith transmitted to the Clerk of the Crown ; and if not entered into within one month from the seizure, or if he shall not appear and plead within the time aforesaid, the goods seized shall be condemned.

10. All condemned goods shall, under the direction of the proper officer, be sold by public auction to the highest bidder.

11. All suits for penalties and forfeitures imposed by any Revenue Law, shall be brought within one year after the offence committed, in the name of the proper officer, or Her Majesty's Attorney or Solicitor General ; and the person against whom judgment shall be given shall pay costs of suit ; no averment need be made in any proceeding for whom the party prosecutes, or to whom the proceeds, when recovered, shall be paid ; any question which may arise as to whether a person be a revenue officer may be determined by *viva voce* evidence.

12. The proceeds of all goods condemned, and all penalties and forfeitures recovered, after deducting the charges of prosecution, shall be paid one half to Her Majesty for the use of the Province, and the other half, if a case of seizure, to the officer seizing the same, and if of penalties, to the officer who shall inform and sue for the same.

13. The proper officer may enter in the day time between sunrise and sunset, into any building wherein such officer shall have reasonable cause to suspect any goods liable to forfeiture may be ; but if the doors be closed and admission denied, the officer, first demanding admission and stating his object, may forcibly enter the same and search for and take away forfeited goods.

14. Under the authority of a writ of assistance to be granted by any Court of Record or Judge thereof, on the application of the proper officer, to continue in force for such time as may be inserted therein, an officer of the revenue, taking with him a peace officer, may enter any building or other place at any time, and search for and secure any goods liable to forfeiture, and if necessary break open doors, chests, and packages for that purpose.

15. Whoever shall assault or obstruct any officer of, or

employed in or by the Treasury Department, or authorized to prevent smuggling, in the exercise of his office, or any person aiding him, shall be guilty of a misdemeanor, and on conviction pay a fine, for the use of the Province, not exceeding one hundred pounds, nor less than fifty pounds, in the discretion of the Court ; and if not paid forthwith, shall be imprisoned for any term not exceeding twelve months nor less than three months at the like discretion.

16. Should any dispute arise touching the cause of forfeiture of any goods seized, the proof shall be upon the owner or claimant of the same.

17. A capias may issue for any penalty payable to the Queen, specifying the amount ; and the person against whom it is issued shall, on being arrested, give sufficient bail by bond to the Sheriff, to appear in Court whence it issued at the day of the return, to answer such suit and pay all penalties incurred by him if convicted, or yield his body to prison, and the defendant may be surrendered to custody, and an assignment of the bond may be made to the Queen on forfeiture as in civil cases ; but the Sheriff shall only be responsible for the sufficiency of the bail to the time of the return of the writ, unless he be notified of the insufficiency of the bail, when other bail may be taken by the Sheriff by endorsement on the bond to the satisfaction of the prosecutor, or the defendant may be rendered into custody as aforesaid.

18. On filing any information in any action of debt, bill, or plaint for the recovery of any penalty, seizure, or other matter in which the Crown is interested, a process in the form now in use may issue instead of a capias ; and the like proceedings shall be had thereon as in cases of non-bailable process in the Supreme Court ; and the venue, whether the action be commenced by summons or capias, may be laid in any County, without alleging the place where the offence was committed.

19. One month's notice in writing shall be given of any action to be commenced against any revenue officer or person aiding him, which may be served upon him or left at his residence, and shall contain the cause of action, the name and residence of the person intending to bring the action, and his attorney, and the evidence shall be confined thereto. Unless the plaintiff shall prove such notice on the trial, the defendant shall have a verdict with costs.

20. Every such action shall be brought within three months after the cause thereof, and shall be laid and tried in the County where the facts occurred, and the defendant may plead the general issue, and give the special matter in evidence; and if the plaintiff shall become non-suit, or discontinue, or on a verdict or demurrer judgment shall be given against him, the defendant shall recover his costs.

21. If in any information or suit a verdict be given for the claimant, and the Judge or Court before whom the cause was tried certify on the record that there was probable cause of seizure, the claimant shall not be entitled to costs, nor the person who made such seizure be liable to any civil or criminal proceeding on account thereof.

22. Within one month after such notice tender of amends may be made to the party complaining, and the defendant may plead such tender in bar to any action, together with other pleas, and if the jury shall find the amends sufficient, they shall give a verdict for the defendant, or if the plaintiff become non-suit, discontinue, or judgment shall be given for the defendant on demurrer, he shall be entitled to costs.

23. In any such action, if the Judge or Court before whom the same shall be tried, shall certify upon the record that the defendant acted upon probable cause, the plaintiff shall be entitled to no more than two pence damages, and to no costs of suit.

24. The liability of goods to seizure under any Revenue Law shall continue for two years from the time the same are imported.

25. The Governor in Council may on such terms as they shall direct, order vessels, boats, or goods of any kind which may be seized under any Revenue Law, or Law relating to trade or navigation, to be restored to the owner, and may also mitigate or remit any penalty or forfeiture.

26. In any prosecution for any penalty under the Revenue Laws, the Attorney General, if satisfied that the penalty was incurred without intention of fraud, or that it is inexpedient to proceed, may enter a nolle prosequi, reporting the same to the Governor, with the reasons therefor.

27. When goods have been entered for exportation, and it shall appear to the Governor in Council that, owing to no

fault of the owner or shipper, the requisite certificate of the landing has not been procured, the bond may be cancelled.

28. This Chapter shall continue in force until the thirtieth day of March one thousand eight hundred and sixty two.

CHAPTER 30.

OF CERTAIN SALARIES.

Section.

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|--|--|
| 1. The salaries of certain Judicial Officers. | 4. Salary of the Clerk of the Pleas, and |
| 2. Travelling charges of the Judges. | payment, &c. |
| 3. Salaries and travelling charges, from what fund paid. | 5. Salary of Clerk of Circuits. |

1. Every person appointed after the thirtieth day of January one thousand eight hundred and fifty one, to any of the following judicial offices, shall receive the salaries hereafter mentioned :—The Chief Justice, seven hundred pounds per annum; the Master of the Rolls, six hundred pounds per annum; and each Puisne Judge of the Supreme Court, six hundred pounds per annum, payable quarterly.

2. The sum of two hundred and fifty pounds shall be allowed to defray the travelling charges and expenses of the Judges holding the Circuit Courts, in addition to their Salaries.

3. The said salaries and travelling expenses shall be paid out of the moneys granted under and by virtue of the Chapter for the support of the Civil Government, and be drawn in the manner therein prescribed.

4. The yearly sum of two hundred and fifty pounds is hereby granted to the Governor as and for the salary of the Clerk of the Pleas, to be paid to him quarterly, by Warrant of the Governor, in lieu of all fees and emoluments arising from his office as such Clerk, and as a full compensation for the performance of all the duties of such office, whether by himself or deputy, and for all contingencies thereof. Such Clerk shall be a Barrister of the Supreme Court, and shall not be allowed to practice in any Court.

5. The yearly sum of two hundred and fifty pounds is hereby granted to the Governor, as and for the salary of the Clerk of the Circuits, to be paid to him in like manner, for his services in attending the several Circuit Courts, in lieu of all travelling charges.

CHAPTER 31.

OF THE NAVIGATION OF THE RIVER SAINT JOHN.

Section.

1. Improvements, &c. of River, expense of, how defrayed.
2. Appointment of Surveyors.
3. Their powers.

Section.

4. Moneys received by, to be accounted for.
5. Powers of Governor and Council in respect of Madawaska River.
6. Continuance of this Chapter.

1. For the purpose of improving the navigation of the River Saint John the Governor in Council may draw by Warrant from the Province Treasury from time to time such sums of money as may be required, not exceeding the rate of two thousand pounds for every year during the continuance of this Chapter, and expend the same or such part thereof in making surveys and in improving the navigation of the River Saint John as may be deemed necessary.

2. The Governor in Council may appoint such and so many persons for the purpose of surveying the said River, or any part thereof, and of erecting and carrying on such works and improvements, and superintending the same, as may be directed.

3. The persons appointed under this Chapter shall have power by themselves or their assistants to enter upon granted lands for the purpose of making any survey or improvement connected with the navigation of the River Saint John, doing as little damage as possible thereto.

4. The several sums of money drawn from the Treasury under this Chapter shall be duly accounted for in each year, by such persons as may receive or be appointed to expend the same, in the same manner as other public money is accounted for.

5. The Governor in Council shall have power to expend such portions of the money granted by this Chapter in improving the navigation of the Madawaska River, by erecting locks thereon or otherwise, and the portage leading round the Falls of the said Madawaska River, and the waters connected therewith, as will promote and provide for the communication into Canada.

6. This Chapter shall be in force for five years from the fourteenth day of April in the year of our Lord one thousand eight hundred and forty nine.

CHAPTER 32.

OF SALT MINES.

Section.

1. Remuneration for discovering Rock Salt, to whom and by whom granted.

Section.

2. Extent of remuneration.

1. The Governor in Council shall grant a remuneration consistent with the public interest, to any person who shall first discover and make known to the Government the situation of any deposit of rock salt within the Province.

2. Such remuneration shall be confined to a proportion of the revenue derived therefrom.

CHAPTER 33.

OF INSURING THE LEGISLATIVE LIBRARY.

Section.

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|---|---|
| 1. Library to be insured, how effected. | 5. When rights vest in Governor what to be suggested on the record. |
| 2. Insurance, how recovered. | 6. Duty of Committee as to premiums, by whom granted, and how paid. |
| 3. In whom rights vest if President or Speaker die. | 7. Moneys received upon policy, when paid, and for what. |
| 4. Vacancy in office of Speaker, in whom rights vest. | |

Section.

1. The Committee of the Legislative Library shall at all times keep the Library insured in some Insurance Office, against loss or damage by fire, which shall be effected in the names of the President of the Legislative Council and the Speaker of the House of Assembly, with the same effect as if they were the owners.

2. The said President and Speaker, in case of loss or damage by fire, shall recover for the loss as a private insurer.

3. In the event of the death of the President or Speaker all the rights and powers shall vest in the survivor.

4. Should a vacancy occur other than by death in the office of Speaker such rights and powers shall vest in the President alone.

5. In case of vacancy in both offices such rights and powers shall vest in the Governor; and in every action by such sole plaintiff under this Chapter, such death or vacancy shall be suggested on the record.

6. The Committee shall annually certify to the Speaker the amount required during the current year for premiums of

insurance under this Chapter, which shall be granted by the Legislature.

7. All moneys received for any such insurance shall be forthwith paid into the Provincial Treasury, to the credit of the Province.

CHAPTER 34.

OF THE PAYMENT OF INTEREST ON TREASURY WARRANTS.

Section.	Section.
1. Warrants to bear interest, when and how.	2. Duty of Treasurer as to publishing, &c. 3. Limitation.

1. When for want of funds in the Treasury the payment of any Warrant demanded cannot be made, the Treasurer shall endorse on such Warrant a memorandum in the form in the Schedule, which Warrant shall thereupon bear interest at the rate of six per cent. per annum, payable semi-annually on the first day of June and of December in each year, until ten days after notice published in the Royal Gazette (unless sooner paid) that payment thereof will be made by the Treasurer on demand.

2. The Treasurer shall, once a month at least, publish in the Royal Gazette a list of the Warrants he may be prepared to pay, and thereafter shall pay the same on demand, with all interest due thereon, up to the period of such demand, not exceeding the tenth day after the publication of such list.

3. This Chapter shall continue in force until the twenty seventh day of March in the year of our Lord one thousand eight hundred and fifty five.

SCHEDULE.

£50	Treasurer's Office, 18 .
Demanded the	day of , A. D. 18 , bearing
interest.	B. R., Treasurer.

CHAPTER 35.

OF QUIT RENTS.

Section 1.—Quit rents extinguished, when and how.

1. The annual sum of twelve hundred pounds currency having been granted to the Queen in commutation and in full dis-

charge of all Quit Rents, and the same having since been ceded to the Province, the right to recover any quit rents accruing before the twenty sixth day of August one thousand eight hundred and thirty five, is therefore extinguished.

CHAPTER 36.

OF DESERTION FROM HER MAJESTY'S FORCES.

Section.

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|--|--|
| 1. Reward, amount, to whom, and when paid. | 3. Reward, how and by whom, and when paid. Extent. |
| 2. Duties of keepers of gaols. | |

1. Any person apprehending a deserter from Her Majesty's Forces, and delivering him up to any officer commanding any military post in this Province, shall for each deserter so apprehended and delivered up, receive a reward of five pounds, on producing a certificate thereof, specifying the name of such deserter, and to what Regiment he may belong, signed by such commanding officer and one Justice before whom such deserter shall be brought.

2. The keeper of the gaol shall receive such deserter in his custody without any fee or reward, whether conveyed by warrant from a Justice, or under military escort by order of the Commandant of any Garrison within the Province.

3. The Governor in Council may order the payment of the reward by Warrant on the Provincial Treasury, but the amount so paid shall not in any one year exceed the sum of one hundred pounds.

CHAPTER 37.

OF OLD SOLDIERS OF THE REVOLUTIONARY WAR.

Section.

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|---|---|
| 1. Bounty to Soldiers and their Widows. | 6. How, by, and to whom paid. <i>Duty of Clerk.</i> |
| 2. Application of Soldier. Oath. | 7. New claimants excluded, from what time. |
| 3. Application of Widow. Oath. | |
| 4. Duty of Justice. Certificate, &c. | |
| 5. Affidavit, with whom filed. <i>Duty of Sessions.</i> | |

1. The annual sum of ten pounds shall be paid, on application as hereinafter specified, to every Soldier of the Revolutionary War, and to every Widow of any such Soldier who

resided within this Province on the twenty third day of March one thousand eight hundred and thirty nine, and who shall be in indigent circumstances, if such Widow shall have been married to such Soldier prior to the time aforesaid, and shall be a Widow at the time of making her application.

2. Any such Soldier applying for such relief shall make affidavit as follows :—

‘I A. B. resident of , in the County of , aged years, do swear that I served in the Revolutionary War in America in the Regiment, (*or as the fact may be*) that I was attached to a Company commanded by , that I was lawfully discharged from the service at , in the year , and that I did reside in this Province on the twenty third day of March one thousand eight hundred and thirty nine, that I am not in the receipt of any pension from Her Majesty, and I am in indigent circumstances, having no sufficient property to maintain myself, and that I have not in any manner disposed of any property to secure my maintenance.’

3. Any Widow of any such Soldier applying for such relief shall make affidavit as follows :—

‘I A. B. of , in the County of , aged years, do swear that in the year I was lawfully married to who served as a in the Revolutionary War in America, that he was attached to the Regiment, (*as the fact may be*) that he died (*or was killed*) at in the year , that I did reside in this Province on the twenty third day of March one thousand eight hundred and thirty nine, and that I am now and have been for the last twelve months a Widow and in indigent circumstances, having no sufficient property for my maintenance, and that I have not in any manner disposed of any property to secure my maintenance.’

4. The affidavits shall be sworn before a Justice living near to the place where the applicant resides, who at the time of administering the oaths aforesaid, shall examine the party and if satisfied that the claim is just, according to the provisions of this Chapter, shall endorse upon or attach to such affidavit a certificate thereof, and also that he has examined the deponent, and that he believes the matters stated in such affidavit are true.

5. The affidavit and certificate shall be filed in the office of the Clerk of the Peace of the County in which the same shall be made, on or before the first day of the Sessions next ensuing the date thereof, at which time the Clerk shall exhibit the same to the Justices in Session, who shall settle all claims for relief made under the provisions of this Chapter, and shall certify in a general Schedule all claims allowed, and transmit the same to the Provincial Secretary.

6. The Governor in Council may draw by Warrant on the Provincial Treasury the amount of such Schedule in favour of the Clerk of the Peace of the County, who shall pay the same to the respective claimants.

7. No claim for Bounty under this Chapter shall be certified by any Sessions, unless the same was made prior to the eleventh day of April one thousand eight hundred and fifty.

CHAPTER 38.

OF THE ENCOURAGEMENT OF AGRICULTURE.

Section.	Section.
1. Aid to Agricultural Societies, how granted.	5. Aid, when forfeited.
2. The same to District Societies.	6. Bounds for exhibition. Penalty.
3. Election of officers.	7. Bounds, what to include.
4. Premiums.	8. Agricultural Schools, aid for.
	9. Limitation.

1. When the President of any Agricultural Society shall make application to the Governor for aid, the Treasurer thereof shall forward to the Provincial Secretary a list of the subscribers to such Society, a copy of the bye laws relating to the disposal of its funds raised by subscription or received from the Province for its use, and his account for the preceding year duly audited by the audit committee and certified by the President, and he shall make oath that he verily believes that the amount set opposite to such subscribers' names have been paid bona fide by them, and that the same is or will be applied in accordance with the bye laws, whereupon the Governor in Council may issue his Warrant in favour of the Treasurer of the Society for treble the amount so subscribed and paid, but the annual sum to be drawn for each County shall not exceed one hundred and fifty pounds.

2. If there be several Agricultural Societies in any County,

each Society shall be entitled to receive in like proportion to the amount subscribed, paid, and certified as aforesaid ; but the whole sum granted to the District Societies of any County together shall not exceed the sum of two hundred pounds in each year.

3. Each Agricultural Society shall elect such officers, and make such bye laws for their guidance, as they shall deem best for promoting the interests of agriculture according to the meaning of this Chapter.

4. Every Agricultural Society receiving such public allowance shall annually offer by way of premiums, or apply otherwise as they deem best for the encouragement or improvement of agriculture or manufactures, a sum not less than such allowance ; and they shall annually transmit to the Provincial Secretary, on or before the first day of January, a statement of the expenditure thereof, specifying the nature of the encouragement or improvement aforesaid, the object for which the premiums have been offered, and to whom allowed, with such general observations in relation to agriculture and manufactures as they may deem important.

5. Any Agricultural Society neglecting to comply with any of the provisions of the preceding Sections, shall forfeit the bounty for the next succeeding year.

6. The officers of such societies may fix sufficient bounds for the erection of the cattle pens and yards, and for convenient passage ways on the days of exhibition, and also for ploughing matches ; within which bounds no person shall be permitted to enter or pass but in conformity with the regulations of the society ; any person offending after due notice shall forfeit a sum not exceeding ten shillings, to be paid to the Treasurer of the County for the use thereof.

7. Nothing in this Chapter shall authorize any such Society to occupy or include within such bounds, the lands of any person without his consent, or occupy any public street or highway, so as to obstruct the use thereof.

8. When it shall be certified to the satisfaction of the Governor that an Agricultural School has been established and in operation in any County for the period of one year, with an average attendance of not less than twenty scholars, that proper instruction in agricultural chemistry, and in the branches

of husbandry, has been given and practically applied in the cultivation and management of a portion of land in connection with such school, and that the sum of not less than twenty five pounds has been subscribed and paid towards the support thereof, the Governor in Council may issue his Warrant in favour of the Teacher for a sum not exceeding one hundred and fifty pounds.

9. This Chapter shall continue and be in force until the first day of May in the year of our Lord one thousand eight hundred and fifty four.

CHAPTER 39.

OF GRANTING LANDS UNDER SPECIAL CIRCUMSTANCES.

Section 1.—When and what lands may be granted in Restigouche, &c., and to whom.

1. The Governor in Council, when satisfied that any person has, before the seventh day of April one thousand eight hundred and fifty two, bona fide occupied or improved lands which have by an Act of the Imperial Parliament become part and portion of this Province, and are situate in the Counties of Restigouche or Victoria, may grant the same to such occupiers or improvers, their heirs or assigns, on such conditions as the Governor may deem fair, without any sale by auction.

Vide 1800 c. 30

TITLE IV.

OF THE POST OFFICE.

CHAPTER 40.

Section.

1. Post Office Department, in whom vested.
2. Regulations and appointments, by whom made.
3. Post officers to execute bond; their salaries.
4. Way Office Keepers, remuneration.
5. Postmaster to extend posts in certain cases.
6. Orders in Council to be published, &c.
7. What letters free.
8. Rates of postage.
9. What postage may be pre-paid.
10. Mode of accounting for moneys.
11. Stamps, how provided.
12. Who liable for postage.

Section.

13. What newspapers free.
14. Rates of postage on books, &c.
15. Governor to make orders under this Chapter as to certain books.
16. Rates of postage on books, &c. in the Province.
17. Certain pamphlets, &c. free.
18. How books, &c. to be enclosed, &c.
19. How questions of free postage to be determined.
20. Regulations as to Masters of Vessels.
21. Ship letters to be delivered before entry, &c.
22. Postage, how recovered.

Section.	Section.
23. Postage marks, evidence of what.	34. Other offences by, how punished.
24. Officers, from what exempt.	35. Offences by other persons, how punished.
25. What letters to be delivered, &c. by Officers of the department. Excep- tions.	36. Receivers, how punished.
26. Penalty for carrying letters, &c.	37. Retaining, &c. letters punishment.
27. Retaining letters, penalty.	38. Persons connected with the office steal- ing, &c., punishment.
28. Misconduct in carrying letters. penalty.	39. Soliciting a person to commit an offence, crime, &c.
29. Duty of ferrymen. Penalty for neglect.	40. Offences, how dealt with.
30. Accomplices, how punishable.	41. Offences punishable with imprisonment, where.
31. Prosecutions, within what time. Penalty and application, &c.	42. Limitation of actions. Venue, costs, &c.
32. The Justice before whom complaints are made vested with certain powers.	43. Extortion, how punished.
33. Persons employed by the Post Office guilty of certain offences, how punished.	44. Explanation of terms.
	45. Money for the department, how drawn. Schedule.

1. The exclusive right of establishing Posts, receiving, conveying and delivering letters, and the power of the Lords of Her Majesty's Treasury by the Act of the Imperial Parliament to establish rates of postage within the Province, are hereby vested in the Governor and Council, by the name of "The Post Office Department."

2. The Governor in Council may establish, alter, or discontinue any posts, post communications, Post or Way Offices, appoint the Postmaster General, officers, and servants connected therewith, (who shall respectively be sworn to the faithful performance of their duties according to Schedule A) to be called the Post Office Department, and make regulations for carrying out the provisions of this Chapter, to be published in the Royal Gazette; but they shall not impose a higher penalty than one hundred pounds for any breach thereof.

3. The Postmaster General and other officers shall respectively execute a Bond to the Queen in such sum as shall be ordered by the Governor in Council, and receive, subject at all times to the revision of the Legislature, the following annual salaries, in full of all fees and perquisites whatever, payable quarterly:—

The Postmaster General,	- - - - -	£400	0	0
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The first Clerk in the General Post Office,	- - - - -	120	0	0
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The second and third Clerks in the General Post Office, each,	- - - - -	110	0	0
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The Postmasters of the respective Post Offices in the following places, that is to say:—				
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Andover,	- - - - -	12	10	0
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Bathurst,	- - - - -	35	0	0
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Bend Petitcodiac,	- - - - -	25	0	0
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Campbelltown,	-	-	-	-	-	£25	0	0
Chatham,	-	-	-	-	-	100	0	0
Dalhousie,	-	-	-	-	-	30	0	0
Dorchester,	-	-	-	-	-	20	0	0
Fredericton,	-	-	-	-	-	240	0	0
Assistant at Fredericton,	-	-	-	-	-	100	0	0
Gagetown,	-	-	-	-	-	15	0	0
Grand Falls,	-	-	-	-	-	20	0	0
Harvey,	-	-	-	-	-	10	0	0
Hampton,	-	-	-	-	-	10	0	0
Kingston,	-	-	-	-	-	10	0	0
Little Falls,	-	-	-	-	-	12	10	0
Newcastle,	-	-	-	-	-	45	0	0
Richibucto,	-	-	-	-	-	50	0	0
Sackville,	-	-	-	-	-	100	0	0
Shediac,	-	-	-	-	-	20	0	0
Saint Andrews,	-	-	-	-	-	200	0	0
Saint George,	-	-	-	-	-	25	0	0
Saint Martins,	-	-	-	-	-	10	0	0
Saint Stephen,	-	-	-	-	-	45	0	0
Sussex Vale,	-	-	-	-	-	20	0	0
Woodstock,	-	-	-	-	-	100	0	0

4. The Governor in Council may allow such remuneration to Way Office Keepers, by way of postage or otherwise, as they may think proper, and such officers shall be liable to the same penalties as other officers of the department.

5. The Postmaster General, with the sanction of the Governor in Council, may, upon the application of any person, extend the accommodation of the post to any place, and agree with him for that purpose, the applicant indemnifying the revenue wholly or in part against the expenses beyond the postage.

6. Every Order in Council shall be published in the Royal Gazette, and laid before the Legislature within fourteen days after the meeting thereof.

7. No postage shall be charged on letters carried through the Province and not delivered therein.

8. Letters delivered or posted in the Province shall be charged at the uniform rate of three pence currency postage for each letter not exceeding half an ounce in weight, with an additional three pence for each additional half ounce; but the

Governor in Council may fix a higher rate for letters from countries with which Her Majesty may have no postal convention, and may make such orders as are necessary for causing the relative scale of weights and charges herein enumerated to correspond as far as may be with the relative scale of weights and charges now or hereafter to be established in the United Kingdom ; and they shall have the power to carry into effect any postal arrangements with the United States for this Province, separately or in conjunction with all or any of Her Majesty's North American Colonies.

9. A party posting a letter in this Province addressed to any person therein, or in any of Her Majesty's North American Colonies, or in the United Kingdom, may prepay the postage.

10. All moneys received for packet postage to and from the United Kingdom shall be carried to a separate Account by the Postmaster General, and be transmitted annually by the Governor to the Postmaster General in England. All other moneys received by the Postmaster General shall be paid by him to the Treasurer at the end of every quarter.

11. The Governor in Council may cause Stamps, with their value printed thereon, to be sold and used as postage.

12. Persons receiving letters addressed to them shall be liable to the postage thereon.

13. Newspapers circulated in the Province, transmitted therefrom, or coming into the same by post, and when from the United Kingdom, being stamped, shall be free of postage.

14. Printed Books, Magazines, Reviews, or Pamphlets, whether British, Colonial, or Foreign, may be sent through the Post from this Colony to the United Kingdom, or from the United Kingdom to this Colony, the postage in all cases being prepaid, at the following rates :—

For a single volume, not exceeding half a pound in weight, six pence sterling ;

Exceeding half a pound and not exceeding one pound, one shilling sterling ;

Exceeding one pound and not exceeding two pounds, two shillings sterling ;

Exceeding two pounds and not exceeding three pounds, three shillings sterling ;

And so on, increasing one shilling sterling for every additional pound or fraction of a pound ; this charge to be the same whether the delivery be at a Post Town on the frontier or sea coast of the Province, or at a Post Office in the interior thereof.

15. The Governor in Council may from time to time make such orders as shall be necessary for carrying the provisions of this Chapter into effect, and such other orders as may be requisite for the transmission through the post of printed Books, Magazines, Reviews, and Pamphlets, to and from other British Colonies and the United States, or other foreign country, in conformity, as far as may be, with the foregoing charges and scale of weights ; and by order duly made and published in the Royal Gazette may carry out any arrangement from time to time made for facilitating the transmission of books and pamphlets, or reducing the rates of postage on letters between Great Britain and the Colonies, which may be sanctioned by Her Majesty's Postmaster General, or by the Lords Commissioners of Her Majesty's Treasury, and may regulate the transmission by post from one part of the Colony to the other of all such books or pamphlets, on such terms and in such manner as to the Governor in Council may seem meet. Every such Order in Council, when published by authority in the Royal Gazette, shall have the same effect as if contained in this Chapter.

16. No printed books, periodical publications, or pamphlets exceeding sixteen ounces in weight each, shall be transmitted by post within this Province ; all under that weight may be at the rate of two pence per ounce up to six ounces, and three pence for each additional ounce up to sixteen ounces, but the Governor in Council may modify such rates.

17. All pamphlets or tracts not exceeding two ounces in weight, and all Parliamentary and Government papers, Imperial or Provincial, shall be transmitted by post free of postage.

18. No book, pamphlet, or printed paper permitted by this Chapter to be sent by post, shall be transmitted thereby with a cover unless open at the sides or ends ; and no words or marks except the name and address of the sender and the person to whom sent, shall be written on the paper or cover or other paper enclosed ; any officer of the department may examine

such printed paper, and if contrary to this Section the same shall be charged with letter postage, and if to be sent out of this Province may be forwarded charged with letter postage or detained.

19. All questions relating to the privilege of free transmission of papers shall be finally determined by the Postmaster General with the concurrence of the Governor in Council.

20. Masters of vessels, not Packets, bound to any place beyond the British North American Colonies, shall be allowed two pence for each letter they receive at the Post Office, and masters of vessels from any such place shall receive the like sum for each letter delivered by them to the Post Office at the first post of communication in this Province; if not paid there then by an order on the Postmaster General. Every master of an inward bound vessel shall on his arrival make the following declaration:—

'I A. B. master of the [*state the name of the vessel*] arrived from [*state the place*] do solemnly declare that I have to the best of my belief delivered or caused to be delivered to the Post Office all letters brought by me except those exempted by law.'

21. No such vessel shall be permitted to make entry or break bulk until such letters are delivered at the Post Office, if any, except those on board vessels liable to quarantine, when they may be delivered to the quarantine officer, who, after proper precautions, shall leave them at the Post Office.

22. All penalties imposed by this Chapter may be recovered with costs in the name of "The Post Office Department," or by any person who shall inform and sue for the same, before any Court of competent jurisdiction; and the informer, although entitled to a part of the penalty, and liable to costs, shall be a competent witness.

23. Postage marks on any letters brought into this Province shall be conclusive evidence of the amount of postage chargeable on such letters, and be recoverable, with any other postage thereon, to the use of Her Majesty.

24. No officer in the Post Office Department shall be liable to serve on a Jury, in the Militia, or as a Parish or Corporate officer.

25. The officers of the Department shall have the exclusive

right of receiving, collecting, conveying, and delivering all letters, except—

Letters sent and delivered by a friend to the party to whom directed ;

Letters sent by a special messenger respecting the private affairs of the sender or the receiver ;

All proceedings connected with the Courts of Justice ;

Letters sent out of the Province by a private vessel ;

Letters of merchants being owners of the vessel or any part of the cargo sent by such vessel and delivered without reward ;

Letters respecting goods sent by common carriers to be delivered with the goods without reward.

26. Whoever shall convey a letter otherwise than by post, or shall perform any service incidental to the conveying any such letter from place to place, or shall send or cause to be sent any such letter, or make a collection of exempted letters for the purpose of conveying them, shall for every offence forfeit five pounds ; and whoever shall be in the practice of committing any of the several acts hereby prohibited for the space of one week, shall for every week he shall continue in such practice, forfeit one hundred pounds.

27. If any person on board any inward bound vessel shall knowingly retain any letter not hereby exempted, he shall forfeit for every such letter five pounds.

28. If any person employed to convey or deliver a post letter bag or a post letter, shall, whilst in his custody or care leave the same, or suffer a horse used for the conveyance on his back of a post letter bag, or a post letter, to be ridden by any body, or if such person be guilty of drunkenness, carelessness, or other misconduct, by which the safety of a post bag or a post letter shall be endangered, or shall collect, receive, convey, or deliver a letter otherwise than in the ordinary course of the post, or shall give any false information of an assault or an attempt at robbery upon him, or shall loiter on the way, or wilfully misspend his time so as to retard the progress or arrival of a post letter bag, or a post letter, or shall not use due diligence safely to convey the same at the rate of speed appointed by the regulations of the Post Office for the time being, on being thereof convicted shall forfeit for each offence a sum not exceeding ten pounds.

29. Every ferryman shall upon request and without reward convey over his ferry any person in the employment of the Post Office travelling with a mail, on pain of five pounds for every refusal.

30. Accomplices shall, upon conviction for offences under this Chapter, be punished like the principal offender.

31. Prosecutions under this Chapter shall be brought within one year after the offence committed; and the Governor in Council may give to the informer the penalty, or any part thereof, as a reward for his services, and may compound the prosecution.

32. Any person summoned before a Justice upon the complaint of a person not belonging to the department, touching an offence under this Chapter, if the same be dismissed or quashed, the Justice may order that the person exhibiting the complaint shall pay to the defendant the costs of making his defence, and such compensation for his loss of time, and those of his witnesses (if any) in attending thereto, as such Justice shall think reasonable, and in default of payment, the Justice may cause the sum of money so ordered to be paid, to be levied by distress of the goods and chattels of the complainant, together with the costs of such distress and sale, and for want thereof the Justice may commit him to the common gaol or house of correction for any time not exceeding one month, unless the sum so awarded, together with all costs and expenses, be sooner paid; and all other proceedings under this Chapter, relating to this Section, shall be under the Chapter "Of summary convictions before Justices out of Sessions."

33. Every person employed by or under the Post Office who shall, contrary to his duty, open or procure, or suffer to be opened, or shall wilfully detain or delay, or procure or suffer to be detained or delayed a post letter, shall be guilty of a misdemeanor, and on conviction thereof, shall suffer such punishment by fine or imprisonment, or both, as to the Court shall seem meet; but this provision shall not extend to the opening, detaining, or delaying of a post letter returned for want of a true direction, or of a post letter returned by reason that the person to whom it is directed is dead, or cannot be found, or has refused the same, or neglected to pay the postage therof.

34. Any person connected with the Post Office Department who shall steal, embezzle, secrete, or destroy a post letter, shall be guilty of felony, and imprisoned for any term not exceeding three years; and if such letter contain any chattel, money, or valuable security, the offender shall be imprisoned for a term not exceeding seven years.

35. Whoever shall steal out of a post letter any chattel, money, or valuable security, or shall steal a post letter bag, or a post letter from a Post Office, or from an officer of the Post Office, or from a Mail, or unlawfully open any such bag, or shall stop a Mail with intent to rob or search the same, shall be guilty of felony, and be imprisoned for any term not exceeding seven years.

36. A receiver of any post letter bag, post letter, chattel, money, or valuable security intended to be sent by post, knowing it to have been stolen, taken, embezzled, or secreted, shall be guilty of felony, and being convicted thereof, shall be imprisoned for a term not exceeding seven years.

37. Any person fraudulently or wilfully retaining or secreting a post letter belonging to another, or post letter bag, or refusing to deliver the same to an officer of the Department on demand, shall be guilty of a misdemeanor, and be fined or imprisoned at the discretion of the Court.

38. Any person connected with the Post Office who shall steal, embezzle, secrete, destroy, wilfully detain or delay any printed paper sent by the post, shall be guilty of a misdemeanor, and on conviction be fined or imprisoned at the discretion of the Court.

39. Whoever shall solicit any person to commit a felony or misdemeanor punishable by this Chapter, shall be guilty of a misdemeanor, punishable by fine or imprisonment not exceeding two years.

40. Every offence against this Chapter may be dealt with in the County where committed, or in an adjoining County, or in any County where the offender is apprehended or in custody, and if committed against any property, or thing mentioned in this Chapter, the same may be laid in the indictment to belong to the Post Office Department; no value need be stated; and when committed by any officer of the Department, it shall be sufficient to allege his being employed therein.

41. When a person shall be convicted of an offence punishable under this Chapter, for which imprisonment shall be awarded, the Court may sentence the offender to be imprisoned, with or without hard labour, in the Provincial Penitentiary, or in any common gaol or house of correction.

42. All legal proceedings which shall be commenced against any person for any thing done in pursuance of or under this Chapter, shall be commenced within three months next after the commission of the offence, and such proceedings shall be laid and tried in the County or place where the cause of action shall arise, and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action ; and in the following cases the defendant shall recover his full costs of suit, as between attorney and client, that is to say :—If a verdict shall pass for the defendant, or if the plaintiff shall become non-suit, or discontinue the action, or on demurrer or otherwise, judgment shall be given against him ; and the defendant shall have the like remedy for his costs of suit as a defendant may have for costs of suit in other cases at law ; and although a verdict be given for the plaintiff in any such action he shall not have costs against the defendant, unless the Judge before whom the trial is had shall, at the time thereof, certify in writing his approbation of the action, and of the verdict obtained thereon.

43. Any person employed under the Post Office Department, and wilfully demanding or exacting for his own benefit, a higher rate of postage than is payable by law, or any person who shall forge or counterfeit any stamp authorized to be affixed to letters, or who shall knowingly or wilfully use such forged or counterfeited stamp with the intent to defraud the Post Office, shall be guilty of felony, and be imprisoned for any term not exceeding seven years.

44. The following terms and expressions shall have the several interpretations hereinafter respectively set forth, unless they shall be repugnant to the subject or context, that is to say :—“Postage” shall mean the duty chargeable on letters transmitted within the Province, also all duty chargeable thereon before such letters come within the same ; “Letters” shall include packets of letters ; “British Mail” shall mean every conveyance by which post letters shall be carried or con-

veyed from the United Kingdom of Great Britain and Ireland to this Province ; " Mail" shall include every horse or other conveyance, and also a person employed in conveying or delivering post letters, and also every vessel which is included in the term packet boat ; and " Mail Bag" shall mean a mail of letters, or a box, parcel, or any other envelope in which post letters are conveyed, whether it does or does not contain post letters.

45. All moneys payable for or in respect of the Post Office Department, shall be drawn by Warrant of the Governor in Council upon the Treasurer, as the same may be required for the service of the Department.

SCHEDULE.

(A)

Form of affidavit to be sworn by every Officer of the Post Office.

I do solemnly and sincerely depose and swear, that I will not wittingly or willingly open or delay, or cause or suffer to be opened or delayed, contrary to my duty, any letter, or any thing sent by the post, which shall come into my hands or custody by reason of my employment relating to the Post Office, except by consent of the person or persons to whom the same shall be directed, or except in such cases where the party or parties to whom such letter, or any thing sent by the post, shall be directed, or who is or are chargeable with the payment of the postage thereof, shall refuse or neglect to pay the same, and except such letters, or other thing sent by the Post, as shall be returned for want of true directions, or when the party or parties to whom the same shall be directed cannot be found ; and that I will not in any way embezzle any such letter or any thing sent by the post as aforesaid ; and I make this solemn oath conscientiously intending to fulfil and obey the same.

Subscribed and sworn at this }
day of A. D. 18 } .

Before me

TITLE V.**OF AUDITING THE PUBLIC ACCOUNTS.****CHAPTER 41.****Section.**

1. What accounts, &c. Auditor may demand, and what disallow.
2. Power as to witnesses; travel of, and expenses.
3. Duty on examining accounts; payment of money due, &c.; examination of evidence.
4. Certiorari, when allowed; proceedings thereon.
5. Auditor when to prosecute.
6. Appointment of Chief Clerk, for what.
7. What copies to be evidence.
8. Expenses, how paid.

1. The Auditor General may from time to time require any person entrusted with the expenditure of public money, to furnish detailed accounts on oath, accompanied with proper vouchers; and if the Auditor shall deem the evidence of any witnesses or the production of any books or papers necessary to substantiate any account, he may refuse to pass the same until such witnesses, books, or papers be produced to him, and if not produced within six months such account may be disallowed.

2. The Auditor General shall have the power of a Justice to cause any witness to be brought before him, and examine such witness on oath touching such public accounts; but no person shall be compelled by such proceedings to travel more than thirty miles from his usual place of abode, or to attend without tender of his reasonable expenses, which shall be charged to the party whose accounts are audited, unless the decision of the Auditor should be reversed upon certiorari.

3. The Auditor General shall examine, and allow or disallow accounts and items therein relating to public moneys, and may charge in every account examined by him any deficiency or loss incurred by the negligence or misconduct of the person accounting, and any other sum for which such person is accountable; and shall certify on the face of every account examined by him any money or property which may be due or coming from any person; and when such Auditor has so certified, he shall report the same to the Provincial Secretary. The person from whom any thing is so certified to be due or coming shall, within thirty days thereafter, pay or deliver the same to the Provincial or any Deputy Treasurer, and furnish

the Auditor General with the evidence thereof; and if any such money or property be not so duly paid or delivered, the Auditor or any person duly appointed by the Governor, may enforce the payment or delivery of the same; and all moneys so certified to be due by such Auditor, shall be recoverable as certified, with costs, from any person answerable therefor; and the examination of all evidence shall take place in the presence of the party whose accounts are under audit, or of his agent.

4. The Auditor if required by any person aggrieved by any allowance, disallowance, or surcharge made by him, shall state the reasons thereof in writing on the face of the account; and every such person, if he have first paid or delivered over to any duly authorized person any money or property admitted by his account to be in his hands, may at his own cost apply for a certiorari to remove into the Supreme Court such allowance, disallowance, or surcharge, on entering into a recognizance to prosecute the same without delay, and if the same be confirmed, shall pay to the Auditor, or to the Provincial Treasurer, within one month thereafter, full costs to be taxed. A notice of the intended application, containing a statement of the matter complained of, shall be given to the Auditor, who shall return to the writ, a copy under his hand of the entries on such account, and shall, if directed to do so by the Governor in Council, defend the allowance, disallowance, or surcharge so impeached. On the removal of the same, the said Court shall decide the particular matter of complaint set forth in such statement, and no other; and if it appear to the Court that the decision of the Auditor was erroneous, they shall make such order as may be just, and may also direct the payment of costs by the Auditor.

5. No proceeding for recovery of any such money or property shall take place unless the Auditor shall have first made a report in writing upon the case to the Governor, or receive from the Governor in Council directions to proceed for the recovery of such money or property.

6. If in any case it shall appear expedient that an examination should be made into the facts connected with the receipt or outlay of any public money, the Governor in Council may appoint the Chief Clerk of the Audit Office, or some other

person, to proceed to any part of the Province to take evidence as to the receipt or outlay of such public money ; who shall be for that special purpose the deputy of the Auditor General, and shall have all the powers conferred on the Auditor General by this Chapter, and who shall report in writing all the evidence so taken to the Auditor General, and he shall thereupon deal with the accounts in such manner as such evidence may warrant ; but every person so appointed shall, before he proceed to act, make oath before the Auditor General or a Justice, that he will faithfully and impartially report all evidence relating to the subject of his inquiry.

7. In all proceedings under this Chapter, it shall be sufficient to produce a copy of any report of the Auditor General, or of his deputy aforesaid, certified and signed by the said Auditor or such deputy, as well as of any minute, order, allowance, or direction of the said Governor in Council, certified and signed by the Provincial Secretary, or Clerk of the said Council ; and such copies so certified shall be received as evidence in all Courts that the said reports, minutes, orders, allowances, or directions, were duly made and properly delivered to the party to whom they were addressed or whom they concerned.

8. All expenses necessarily incurred in carrying out this Chapter, so as to ensure a perfect audit, and all costs on certiorari which may be ordered to be paid by the Auditor, shall be defrayed from the Surplus Civil List Fund.

TITLE VI. OF MUNICIPALITIES.

CHAPTER 42.

OF THE ESTABLISHMENT OF MUNICIPAL AUTHORITIES.

Section.	Section.
1. Sheriff, when and for what to call meeting.	4. County Council.
2. Qualification of voters. Duty of Sheriff.	5. What Cities exempt.
3. Charter, how granted.	

{ 1. When at least fifty resident freeholders and householders, rate payers of any County, petition the Sheriff to call a public meeting at the Court House, to determine upon the propriety

of incorporating the County, he shall forthwith give three months notice of the day and hour of holding the same ; such notice to contain a copy of the petition, with the signatures, which shall be published in a Newspaper printed in the County, if any, for eight consecutive weeks, and also by printed hand bills posted up in at least ten of the most public places in each Parish.

2. At such meeting the Sheriff shall preside ; if not less than one hundred householders, being rate payers on property, be present, and two thirds of the persons present so qualified decide by vote that the County shall be incorporated, he shall certify the same under his hand to the Governor in Council ; but if they decide in the negative he shall dissolve the meeting.

3. The Governor in Council on receiving such certificate, shall grant to such County a Charter of Incorporation under the Great Seal of the Province, constituting the rate payers on property therein a body politic and corporate, by the name of "The Municipality of" [naming the County], and by that name shall have perpetual succession and a common seal, and may sue and be sued, may hold real property within its limits not exceeding at any one time the yearly value of five hundred pounds, and may alienate the same, and enjoy all the powers and privileges necessary for the purposes of this Title.

4. In each County so incorporated there shall be a County Council, consisting of a Warden and Councillors, to be elected as provided by Chapter 43.

5. The Cities of Saint John and Fredericton shall be exempt from the operation of this Title ; but the remaining Parishes in the Counties of York and Saint John may be incorporated by Charter, if the rate payers so decide.

CHAPTER 43.

OF THE ELECTION OF COUNCILLORS.

Section.	Section.
1. When and by whom lists to be furnished.	5. Manner of voting. Duty of Chairman and Tellers.
2. Councillors, &c., how elected. Duty of Chairman. Parish officers, when appointed.	6. Duty of Chairman as to return, &c.
3. Qualification of candidates.	7. Voters' oath, by whom administered.
4. Meeting, when opened and closed.	8. Chairman's powers as Justice.
	9. Councillors for the Parish.

1. When any County is incorporated, the collectors of rates for each Parish shall annually, at least ten days previous to the

{ day of election of Councillors, furnish the Town Clerk with correct lists under their hands of all persons rated upon property for Parish or County rates for the year previous, and who have paid such rate, which lists the Town Clerk shall furnish to the Chairman named in Section 2 of this Chapter.

2. The election of Councillors shall take place on the first Monday in December in every year, except in the County of Carleton, in which it shall be on the last Monday in September, twenty days public notice in writing of the time and place of holding which shall be given by each Town Clerk by posting up the same in three of the most public places in the Parish. The electors present shall elect a Chairman, who after taking the Oath (A) in the Schedule to this Title, shall preside at the election, which oath, in the absence of a Justice, may be administered by the Town Clerk or any freeholder then present. At which time all Parish officers, or so many as may be deemed necessary for the ensuing year, may be elected by the rate payers by ballot the same as Councillors. The Chairman shall send a correct and certified list of those elected to the Secretary Treasurer, within six days after the election. If none, or not a sufficient number, are elected, or no certified list be sent as aforesaid to the Secretary Treasurer, the Council may appoint the Parish officers.

3. No person shall be elected a Councillor unless he be an inhabitant of the County, seized and possessed at the time of his election of real estate of the value of one hundred and fifty pounds above incumbrances.

4. The meeting shall begin at ten o'clock in the morning, and if a poll be demanded, the Chairman shall grant it, and keep the meeting open till four o'clock in the afternoon.

5. The voting shall be by ballot, the names of the candidates shall be written or printed on paper, and put in a box by the elector; at the hour of closing each candidate may choose an elector, to be sworn as Tellers, and the Chairman shall publicly open the ballot box, take out each ballot separately, and read the names thereon, so that each Teller may take them down; when all are read and taken down, the Chairman shall state the number of votes polled for each candidate, and declare the two having the majority elected; the Chairman shall give the casting vote if necessary.

6. The Chairman within ten days after closing the election shall, under the penalty of twenty shillings for each day's neglect, make return in writing to the Secretary Treasurer of the Councillors elected, and shall also deliver to him the number of the votes for each candidate, which shall be open for inspection to any member of the Corporation.

7. The Chairman may, or if required by a candidate, shall administer to any person claiming to vote, the Oath (B) in the Schedule to this Title.

8. The Chairman during the time of election of Councillors or Parish officers, shall be invested with all the powers of a Justice for the preservation of the peace.

9. Each Parish shall elect two Councillors.

CHAPTER 44.

OF THE QUALIFICATION OF VOTERS AND COUNCILLORS.

Section.

1. Qualification of voters.
2. Disqualification for any office.

Section.

3. Exempts.

1. Every male British subject of the age of twenty one years, being a rate payer on property in the Parish, and assessed for, and having paid his rates up to the time of election, and whose name is on the list furnished by the Town Clerk, may vote at the election of Councillors.

2. No person holding any of the following offices shall be elected Councillor, or appointed to office by any Council:—

First—Ministers of Religion, Judges or Justices of any Court, and Officers of the Army or Navy on full pay.

Second—Any person interested in any contract with the County or receiving pecuniary allowance therefrom.

3. Members of the Executive Council and of the Legislature, Practising Physicians and Surgeons, School Masters actually engaged as such, any Miller being the only one employed at a mill, persons over sixty years of age, and Councillors or County officers who have served or paid for refusal, for four years next after service or refusal, shall all be exempt, unless with their own consent.

CHAPTER 45.

OF THE COUNCIL AND ITS OFFICERS.

Section.

1. When Councillor qualified to act; Penalty.
2. Vacancy, how filled, &c.
3. Council when to choose Warden.
4. Councillor, continuance of office.
5. Resignation of Warden or Councillor.
6. Not to receive salary.
7. Quorum, decision of questions, penalty for absent members.
8. Meetings of Council.
9. Appointment of Secretary Treasurer, and other officers.
10. Bye Laws, by whom made and for what.
11. Powers of Justices, when transferred, and regulations repealed.
12. County liabilities, by whom assumed, &c., restriction as to issuing notes, &c.
13. Assessment how made and apportioned, what property exempt.
14. Allowances, by whom paid.

Section.

15. Bye Laws, how disallowed.
16. Assessment for salaries, &c., when made.
17. County Auditor, appointment, &c.
18. Accounts referred to whom.
19. Auditor's duties, when Council may pass Accounts, inspection.
20. Secretary Treasurer's duties.
21. Contracts, when valid.
22. Extent of fine, &c., by Bye Laws.
23. Abstract of receipts &c. of Council, when and to whom transmitted.
24. Rates and tolls, how assessed.
25. Classification of charges.
26. When and by whom Councillors may be appointed.
27. Actions, how to be brought; service of process.
28. Council's rights as a Court.
29. What works &c. not to be affected.

1. No Councillor shall act as such until he has taken and subscribed the Oath (C) in the Schedule, and unless he do so within ten days after notice of his election, he shall be deemed to have refused to serve, and shall be liable to pay to the Secretary Treasurer such fine, not exceeding ten pounds, as the bye laws of the Council may prescribe; but no person elected to be Councillor shall be subject to the penalty for refusing to take the oath if he be not qualified.

2. If any Councillor die, resign, be absent from the Municipality more than six months, become incapacitated after election, or refuse to serve, or in case of an election being set aside, the Warden shall issue his warrant for a new election; the election shall be conducted in the manner prescribed in this Title, but no warrant shall issue to supply any vacancy after the second semi-annual meeting in any year. In all such elections the Chairman shall be governed by the last certified assessment list, and the Councillor elect shall hold office for the residue of the term only.

3. The Council elect and sworn shall, within twenty days after their return, assemble at the Court House, and choose from among themselves a Chairman, who shall be designated the "Warden of the County of —," [adding the name of the County,] who shall hold office for one year, or until his successor be elected and sworn, unless he be continued Councillor and be re-elected; should a vacancy occur in

the office of Warden, the Council, at its first meeting thereafter, shall elect a Warden, but during his temporary absence they may choose a Chairman from the members present.

4. Every duly elected and qualified Councillor shall continue in office for one year, or until another is elected in his stead; but on his going out he shall not be re-elected for the next four years without his consent.

5. A Warden or Councillor may resign at any time by declaration in writing, and paying a fine of ten pounds.

6. No Warden or Councillor shall receive any salary or emolument for his services as such.

7. A majority of the Council shall be a quorum, a less number may adjourn; all questions shall be decided by a majority; the Warden or temporary Chairman shall vote only when the division is equal; absent members may be compelled to attend under penalties provided by the bye laws.

8. Every Council, after its first meeting, shall meet each year on the second Tuesday in January and the third Tuesday in July; no meeting shall exceed five consecutive days; the Warden, on the application of four members, may call special meetings; the notice shall specify the object thereof, and be posted up in some public place in the Parish, and each Councillor shall be served with a copy thereof by leaving the same at his residence at least two days before the meeting. All meetings shall be public.

9. Each Council shall appoint a Secretary Treasurer, a sufficient number of Firewards for each District or Town, and such County officers as they deem necessary; the Secretary Treasurer to be Secretary and Treasurer of the Corporation.

10. Each Council may make regulations for the management and good order of their proceedings, and may make bye laws to regulate the following objects:—

First—In making, maintaining, altering, or stopping up any road, not being a great road, the erecting of any bridge or building, the purchase and management or sale of such real estate as may be required for County use, the management of all County property, the support of the poor, the establishment of markets and fairs, ferries, public wharves and landings, and regulating the same.

Second—For providing means to pay the expenses of the

administration of justice chargeable on County funds, and providing for the establishment and support of Schools and Hospitals, the erection of School houses, and for the preventing and extinguishing of fires.

Third—For assessing and appropriating all moneys for carrying into effect the object of the bye laws, such moneys to be raised by tolls on public works, or by rates on real and personal property, or its owners and occupiers, and on the poll and incomes of the other persons resident in the respective Parishes; but no greater assessment solely for Parish purposes shall be raised than recommended by the Councillors for that Parish, and the assessment shall be confined to that Parish.

Fourth—For the collection and accounting of all tolls, rates, and County revenues, for imposing penalties, determining the amount and manner of paying salaries, fees, and remuneration to County officers, making contracts, and for determining what officers shall be paid, and the amount and mode of paying them.

Fifth—For obliging each showman of every public exhibition to pay to the Secretary Treasurer, for the use of the County, a sum not exceeding ten pounds.

Sixth—For making regulations for trying contested elections of Councillors; and the going at large of all cattle and fowl.

Seventh—For preventing drunkenness, profane swearing, obscene language, or any species of vice or immorality on the public roads or streets; for preserving the peace thereon and in public places or taverns; for preventing cruelty to animals, or the sale of any intoxicating liquors to minors; for restraining and punishing all vagabonds and drunken or disorderly persons in any street or road in the County, and for providing for any matter specially subjected to the control of the Council.

11. All the powers vested in the Justices to make bye laws, impose rates, appoint officers, or make regulations, shall, after the incorporation of any County, be transferred to and received by the Council; no such laws and regulations shall be considered repealed unless expressly so enacted by the Council.

12. All liabilities due by any County shall be assumed and paid by the Council, and be recoverable from the Corporation,

and all debts due to and property of the County shall vest in the Council, but no County shall issue any bill or note, or in any way act as Bankers.

13. The County Council in assessing shall be governed by the laws made or to be made relating to assessments, and in no case of assessment shall it exceed two pence in the pound on the value assessed, to be equally apportioned on all property assessed. The property real or personal of the Queen shall be exempt.

14. All allowances granted by law to any Collector or County Treasurer shall be paid by the Council, and, unless otherwise ordered by the Council, all compensations of any kind to every County, Town, or Parish officer, shall continue to be paid by the Corporation.

15. The Warden shall forthwith, on the passing of each bye law by the Council, transmit a copy to the Provincial Secretary, who shall endorse thereon the day of its receipt; the same shall not be of force until the expiration of thirty days thereafter. The Governor in Council within that period may disallow the same, and such disallowance, with a certificate of the day of the receipt, shall forthwith be transmitted by the Secretary to the Warden, and the bye law shall be void.

16. All orders for assessment for the payment of the salaries of County officers, or the cost of public works directed by the Council, shall be made by the Council at any semi-annual meeting.

17. The Council at their first semi-annual meeting in each year shall appoint a County Auditor, who shall not be a member of the Council, or one of its officers, or have any interest in any contract with the Council, or be employed by them; before acting he shall take and subscribe the Oath (D) in the Schedule.

18. The Council shall refer all accounts for audit to the County Auditor.

19. The County Auditor shall audit all accounts referred to him, and report thereon at the next semi-annual meeting; he may call for all books and vouchers he may require, and the Council shall not pass any account until so audited and reported; when audited they shall be open to the inspection of any elector.

20. The Secretary Treasurer shall enter in a book the proceedings, bye laws, rules, and regulations of the Council, and receive for the Council from all persons having charge thereof, all money, property, books, documents, plans, maps, manuscripts, and bonds pertaining to the County, or any Parish thereof, enforce obedience to the provisions of this Title, and to the rules and regulations of the Council ; and shall also keep a register of all papers and documents in which any action has been taken by the Council, which shall be signed by the Warden or Chairman, and countersigned by the Secretary Treasurer, copies of which, so signed, shall be evidence in all Courts of Law.

21. All contracts approved by the Council shall be signed by the Warden, and countersigned by the Secretary Treasurer.

22. No bye law of the Corporation shall impose any penalty exceeding five pounds, nor any punishment of imprisonment for a longer period than thirty days.

23. The Warden shall ten days before the meeting of the Legislature, transmit to the Governor, to be by him laid before the Legislature, an abstract of the receipts and expenditures of the Council for the preceding year.

24. All rates and tolls imposed by the Council shall be assessed and recovered in the manner prescribed by the bye laws imposing the same, or by the ordinary mode of assessing and collecting rates.

25. The expenses of levying, collecting, and managing all rates, shall form the first charge on the County funds ; the expenses of the Sheriff, Coroner, and Gaoler, in the care and safe keeping of prisoners, and all matters connected with the administration of justice, shall form the second charge ; all debts and liabilities due and created before the incorporation, the third ; and all other sums for any purpose not within the scope of the power of the Council, the fourth charge ; and all sums not included in the above, directed by the bye laws to be paid from the County funds, in the order directed, shall form the fifth charge.

26. When any Parish in any Municipality shall neglect to elect Councillors as prescribed by this Title, the Governor in Council shall, upon the statement made on oath by any two electors, that no election was had within the time limited,

appoint Councillors for such Parish, who shall be sworn into office and have all the powers and privileges, and be subject to the same duties and penalties, as if elected.

27. Every action shall be brought by or against any County Council in its corporate name ; the service on the Secretary Treasurer shall be good.

28. The Council during its sittings shall be a Court for the transaction of business, and for such purposes shall have all the rights and privileges incident thereto.

29. Nothing in this Title shall extend to any toll bridge, a road of any Company, or any individual, or any work under the contract of the Imperial or Provincial Government, or Military authorities.

CHAPTER 46.

OF THE FIREWARDS.

Section.	Section
1. Engine men, appointment of, and duty.	7. Assessment and application.
2. Regulations, by whom.	8. Accounts, before whom laid.
3. Exemptions.	9. Punishment for neglect.
4. Firewards' powers.	10. Defining district limits, &c.
5. Obedience to commands.	11. Firewards' additional powers.
6. Assessments, by whom. Extent.	

1. The Firewards shall appoint by warrant a sufficient number of able men in each Town or District, not exceeding fifty for each engine, who shall have the care and management thereof, whose appointment shall be registered by the Secretary Treasurer upon certificate of the Firewards.

2. The Firewards shall make such regulations as to the conduct and duty of the firemen, and impose such fines for the breach thereof, as the majority shall deem meet. No fine shall exceed forty shillings, and shall be recovered and applied as the Firewards shall direct.

3. All firemen shall be exempted from filling any Parish office, and from the performance of statute labour.

4. Any two of the Firewards may at any time enter into any building in the Town or District, and if in their opinion damage may be apprehended from any stove pipe, oven, hearth, or chimney, they may prohibit the lighting of fires therein, until after compliance with their written directions ; any person neglecting such directions shall for each offence forfeit forty shillings.

5. The Firewards may severally command assistance for the extinguishing of fires, by forming persons into line for the conveyance of water, and for the removal and safety of goods; any person disobeying such command may be sent by such Firewards to the gaol or lock-up house for a period not exceeding forty eight hours, and forfeit forty shillings.

6. The Council are authorized to assess for any sum not exceeding three hundred pounds in any one year, as the Firewards by estimate in writing recommend to be necessary, for the erecting and repairing engine houses, for purchasing, repairing, or keeping in order any fire engine, ladders, hooks, or other necessaries.

7. The same shall be assessed and collected as prescribed in this Title, and be paid to the Firewards, and by them applied for the purposes intended.

8. The Firewards shall annually render to the Council a particular account of the expenditure of all moneys received and paid.

9. Any Fireward neglecting to render such account, the Council may order him to be brought before them by warrant, and may commit him to gaol until he render such account to them or to the County Auditor.

10. The Council shall define the limits of the Town or District.

11. The Firewards, in addition to the special powers herein contained, shall make regulations for their own government, and the regulation and government of the firemen and fire and other protection companies, and generally for the management of the fire department, and the prevention and extinguishing of fires, and impose penalties for any breach thereof, not exceeding forty shillings in any one case; a copy of such regulations, as often as made, shall be filed in the office of the Secretary Treasurer.

CHAPTER 47.

OF PENALTIES AND FORFEITURES.

Section.

1. Collector neglecting to furnish list, how punished.
2. A Justice, &c. refusing aid, punishment.
3. Councillor when fineable, recovery, and application.

Section.

4. Parish officers, neglect to serve; penalty. Vacancy how filled.
5. Competency of witnesses.
6. Penalty for not delivering up books, &c.
7. Application of fines, &c.

1. Any Collector failing to furnish the Town Clerk with a certified list within the time specified in Section 1 of Chapter 43 of this Title, shall be guilty of a misdemeanor, and being convicted before two Justices shall be committed to gaol, there to remain until the same be furnished.

2. Any Justice or other person present at any election, refusing to aid the presiding officer during the election, shall be guilty of a misdemeanor and be punished accordingly.

3. If the fine imposed upon the Councillor by Section 1 of Chapter 45 of this Title be not paid within eight days after his neglect to serve, the same may be recovered before a Justice in the name of the Secretary Treasurer, or any elector of the Municipality; one third to be paid to the prosecutor, if not a public officer, and the remaining two thirds to the Corporation; if he be a public officer, the whole shall be paid to the Corporation.

4. Every Parish officer elected or appointed shall be sworn to the faithful discharge of his duty within fourteen days thereafter, before a Justice, who shall forthwith make return thereof to the Secretary Treasurer; in case of neglect to serve, each officer shall forfeit forty shillings for each offence, and in addition thereto, may be dismissed by the Council. In case of vacancy for any cause, two Councillors may fill the same, subject to the approval of the Council.

5. No informer or other person who is to receive any part of such fines and penalties, shall be a competent witness for the prosecution, unless he relinquishes in writing all claim thereto, in which case the whole shall be applied as aforesaid; but any other inhabitant of the County shall be a competent witness in such as well as in all other cases of the Corporation, except where he may be personally interested.

6. All Councillors or County and Parish officers having charge of any money, property, books, documents, plans, maps, manuscripts, or records of any kind pertaining to any Parish within the Municipality, shall deliver up the same, on demand, to the Secretary Treasurer, under the penalty of forty shillings for each offence.

7. All fines and penalties shall be applied according to the directions of this Title or of the bye laws imposing the same; or when not specially applied, then to be paid to the Secretary Treasurer for the use of the County.

SCHEDULE TO TITLE VI.

(A)

Oath to be taken by Returning Officer.

I A. B. presiding and returning officer at the election of Councillors for the County of , do swear that I have not received, and will not receive, by myself or any other person, any gift or reward as a consideration of my returning or effecting the return of any person as a member of the Council for the County of ; and that I will, to the best of my ability, faithfully conduct the present election for the choice of members of the County Council, and truly declare the candidates who, at the final close, shall appear to have the majority of votes ; and that I will use the best of my endeavours to preserve peace and good order at such election, and to give all persons entitled to vote, free access to and from the poll.

(B)

Oath to be taken by Voter at Election of County Councillors.

I do swear that I am C. D. whose name is entered on the Assessment Roll of the Parish of , and have not already voted at this election.

(C)

Oath to be taken by every County Councillor, in addition to the Oath of Allegiance.

I E. F. having been elected a Councillor for the County Council of do hereby swear that I will faithfully discharge the duties of the said office according to the best of my ability; and that I am seized and possessed, to my own use, of lands and tenements held in fee within the limits of the County of of the value of one hundred and fifty pounds over and above all charges and incumbrances due and payable upon or out of the same ; and that I have not fraudulently or collusively obtained the same for the purpose of qualifying me to be elected as aforesaid.

(D)

Oath to be taken by the County Auditor.

I G. H. having been appointed to the office of Auditor for the County of do hereby swear that I will faithfully dis-

charge the duties of that office according to the best of my judgment and ability, and that I have not directly or indirectly any share or interest whatsoever in any contract with, by, or on behalf of the Council of this County.

TITLE VII. OF PARISH SCHOOLS.

CHAPTER 48.

OF THE BOARD OF EDUCATION AND OFFICERS.

Section.	Section.
1. The Board.	3. Local Inspectors, appointment, salary.
2. Chief Superintendent, appointment, salary.	

1. The Governor and Council, with the Superintendent of Schools, shall constitute a Provincial Board of Education. The Governor, with three other Members and the Superintendent, shall be a quorum.

2. The Governor in Council may appoint a Chief Superintendent of Schools, who shall perform the duties of Secretary to the Board; his salary as Superintendent and Secretary shall be two hundred pounds per annum, and fifty pounds in addition for travelling charges and contingencies of office.

3. The Governor in Council shall appoint one Inspector of Schools for each County, and shall regulate his salary, in no case to exceed seven shillings and six pence for each inspection, except where such remuneration would be less than fifty pounds per annum, which shall be the minimum allowance for the inspection of Schools in any one County.

CHAPTER 49.

OF THE DUTIES AND POWERS OF THE BOARD, THE SUPERINTENDENT, AND OTHER OFFICERS.

Section.	Section.
1. Training and Model Schools, establish- ment of.	5. Recovery of what balances, &c.; appli- cation, &c.
2. Examiners.	6. Treasury Warrants for Teachers' pay.
3. Classification of Teachers.	7. Allowance to pupils, when.
4. Licences and appeals.	8. Superintendent to execute what orders.

Section.

- 9. His duty as to examination of candidates, and system of tuition.
- 10. As to Reports, &c.; circulation.
- 21. As to apportioning of certain moneys.
- 12. As to Schedules.
- 13. As to Abstracts and yearly Report.
- 14. Inspector's duty when visiting Schools.
- 15. When to make return; particulars.
- 16. When to countersign Register; Form.

Section.

- 17. Trustees to divide Parishes into Districts; Memorandum to Teachers, when.
- 18. When may displace Teacher.
- 19. Who may be admitted free scholars.
- 20. Public meeting for assessment, how called; proceedings.
- 21. School districts, how and by whom defined.
- 22. Examiners' meetings, their doings; report.

1. The Board may establish one Training School, or continue any one now in operation, and a Model School connected therewith, appoint a Teacher to such Training School, and also a male and female Teacher to the Model School.

2. The Board shall appoint two persons, who, with the Superintendent or one local Inspector, shall be Examiners.

3. The Board on receiving the report of the Examiners, with a certificate from the Training School Teacher, of the moral character and attendance of the applicant, shall once in every six months cause all persons so examined to be classed into first, second, and third class Teachers.

4. The Board shall grant all licences to teach, determine all appeals of suspended or dismissed Teachers from the decision of the Trustees, and complaints against existing Teachers, and may refer the Teacher's appeal to the local Inspector for inquiry, and make final decision thereon.

5. The Board shall have the power to recover, in the name of the Superintendent, all balances of money and stocks of books, maps, and apparatus, purchased for the use of Parish Schools, and shall apply the same and the proceeds (if any) from the sale thereof, in providing suitable books, maps, and apparatus for the use aforesaid, and shall appoint persons in each County to sell the same for the purpose, at the prices fixed by the Board.

6. The Board shall from time to time, after the rate specified in Section 12 of this Chapter, direct the manner in which the Warrants on the Treasury shall be issued, for the remuneration of the Teachers named in the Schedule prescribed by said Section.

7. The Board, when satisfied that any pupil has hereafter attended the Normal School for the sole purpose of becoming a Teacher in this Province, and has passed examination, received licence, and commenced teaching, may allow such pupil

ten shillings per week toward payment of his expenses during his attendance at such Normal School, not exceeding twelve weeks.

8. The Superintendent, in addition to the duties herein prescribed, shall execute the orders of the Board.

9. He shall order all candidates for the situation of Teacher to be examined, make such regulations and enforce such system of instruction as shall best promote a good practical education.

10. He shall prepare suitable forms, and give the necessary instructions for making reports and conducting proceedings under this Title, and cause the same, with regulations for the organization and government of the said Schools, after being printed with copies of this Title, to be transmitted to the proper officers to execute; and collect information on education, and diffuse the same among the people.

11. He shall annually apportion all moneys granted by the Legislature for the support of such Schools not specially appropriated among the several Parishes in proportion to the number and classes of Schools reported by the Inspectors to have been efficiently conducted for the year preceding, not exceeding an average of two hundred pounds to each Parish in any one County, nor two hundred and sixty pounds to any one Parish therein.

12. He shall semi-annually make for each County a detailed Schedule of all the Schools therein for which he has received the requisite certificates, registers, and other returns approved by the Board, specifying in each Schedule the name, sex, and class of each Teacher; the District, Parish, and County in which, and the time each School has been kept, and the amount to be paid each Teacher; and shall certify and transmit the same forthwith to the Provincial Secretary, with the order of the Board thereon as to the manner the Warrants shall issue for the payment thereof.

13. He shall in each year prepare an Abstract of all the returns received from the Inspectors, and a Report of the condition and efficiency of the Schools, containing such information relating to the system of education in this Province as he can collect, and such plans and suggestions for improvements therein as he may deem applicable; and so far as he can

ascertain, the amount of moneys expended in this Province for educational purposes, and from what source derived; and also the returns and moneys received from the persons appointed to sell books and apparatus, which shall be laid in a printed form before the Legislature within ten days after the opening thereof.

14. Each Inspector shall visit and examine the Schools respectively within his District four times in every year, or oftner if the Board direct, for which additional inspection he shall not be paid, and shall at each visit examine as to the progress of the pupils, the discipline, the system of instruction, the mode of keeping registers, the average attendance of pupils, and the character and condition of the buildings and premises, and give such advice as he shall deem proper, and see that they are properly conducted; to prevent improper and recommend authorized books to be used in such Schools, to give information where they can be obtained, and the advantages of using them, and exercise his influence to induce Parents, Guardians, Trustees, and Teachers, to improve and make such Schools efficient.

15. He shall by the first day of November in each year, prepare and transmit to the Superintendent a Report of the Schools in his District in the form prescribed, and which shall state—

First—The number of Schools and Districts under his inspection.

Second—The number of pupils in each School over five and under sixteen, and between sixteen and twenty one years of age.

Third—The period each School has been kept by a qualified Teacher, the branches and number of pupils taught in each, and the average attendance of each sex in summer and winter.

Fourth—The amount of money received in each Parish during the year, specifying particularly from what sources derived; also the amount expended, the balance (if any), and the cause thereof; the semi-annual salaries of the Teachers with and without board.

Fifth—The number of visits in each year, the number of School Houses and their condition, whether rented or erected during the year, of what character, and by what means.

Sixth—The number of qualified Teachers, their classes, sexes, and religious denomination, the number (as far as he can ascertain) of private Schools, the number of pupils and branches taught therein, and any other information relating to education in each Parish, and suggestions with a view to the improvement of Schools, and the diffusion of knowledge.

16. The Inspector, on receiving from any Teacher in his District the original register, with all documents prescribed by the Superintendent, and duplicates, if he is satisfied that the School has been regularly kept six months, shall countersign the same, with such remarks thereon as he may deem necessary, and deliver them, with a certificate in the form following, to the Teacher:—

I A. B. Inspector of Schools for the County of do
certify to the Board, that in District number (*or called*
) there is a School House, that C. D. a Teacher having
the requisite qualifications, and of the class, has taught
therein from the day of to the day of
instant, (*or last*) to my satisfaction, and that the inhabitants of
the said District (*or Parish*) have subscribed and paid (*or been*
assessed and paid, according to the fact) the sum of
(*or have furnished the said Teacher during the same period*
with board, washing, and lodging) towards the support of the
said School.

A. B. *Inspector of Schools for*
the County of .

17. The Trustees shall divide their several Parishes into convenient Districts when necessary, and when a sufficient District School House has been provided, and the inhabitants, with the consent of the Trustees, agreed with a licenced Teacher for not less than six months, and secured his allowances, of which they shall give him a memorandum, having regard to the Provincial allowance apportioned for the year by the Superintendent to the Parish.

18. The Trustees shall suspend or displace any Teacher within their Parish for incapacity, or any improper or immoral conduct, and in such case shall forthwith transmit their proceedings to the Superintendent for the information of the Board, who may refer the same to the inquiry and report of the local Inspector.

19. The Trustees shall admit into the Schools in their respective Districts three scholars, the children of indigent parents.

20. The Trustees shall, on receiving the application prescribed in this Title, call a public meeting of the inhabitants of any Parish or District rateable upon property, to determine upon the assessment prescribed in such Title, by notice advertised at least twenty days in a Newspaper published in the Parish (if any), and also posted up for the like period in five or more of the most public places in such Parish or District, at which meeting they shall preside, and transmit the vote of such meeting to the Assessors of the Parish, and shall receive and expend the amount, when collected and paid to them, in strict accordance with the decision of the majority at such meeting, as expressed by their written resolutions.

21. The Trustees shall define in writing the boundaries of each District, with or without reference to a plan or survey, to be filed in the office of the Clerk of the Peace, with the plan, if any.

22. The examiners shall hold their meeting when most convenient, and shall examine candidates for the situation of Teachers, who have been taught in the Training School, and shall report to the Board the result of each examination and the qualification of the candidates.

CHAPTER 50.

OF THE TRAINING AND MODEL SCHOOLS.

Section.

1. Duties of Teacher.
2. Certificate of character and attendance.

Section.

3. Salary of Teachers.

1. The Teacher of the Training School shall instruct the Candidates and Teachers attending, in the art of teaching and the best method of conducting a Parish School, especially the art of communicating the branches of Common School education in the manner best suited to the capacities, ages, and conditions of the pupils.

2. He shall give to each Candidate and Teacher a certificate of character and attendance.

3. The salary of the Teacher of such Training School shall

not exceed two hundred pounds per annum, and the salary of the male Teacher of the Model School shall not exceed sixty, nor the salary of the female Teacher fifty pounds per annum.

CHAPTER 51.

OF THE TEACHERS.

Section.

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| 1. Teachers, when entitled to Class Licence. | 10. When dismissal of Teachers final. |
| 2. Third Class Teachers' Licence. | 11. Duty of persons appointed to sell books, &c. |
| 3. What Teachers not to be employed. | 12. Trustees, for what fineable; recovery and application. |
| 4. Teachers' duties. | 13. Assessment in incorporated Counties, how regulated. |
| 5. Original Register, &c., when and to whom exhibited and transmitted. | 14. Trustees, Teachers, or Inspectors, for what fineable; application. |
| 6. Salaries of Teachers. | 15. What evidence of School District. |
| 7. Teachers, when paid for less than six months. | 16. Salaries, how paid. |
| 8. Public meeting for Assessment, how called, proceedings. | 17. When Teachers may apply to Legislature. |
| 9. Parishes, &c. adopting Assessment, bonus. | 18. Limitation. |

Section.

1. No Teacher shall receive a first or second class licence until he has attended the Training School not less than three months, passed his examination before the Board of Examiners, and obtained a certificate of qualification for the following requirements :—Male Teachers of the first class to teach spelling, reading, writing, arithmetic, English grammar, geography, history, book-keeping, geometry, mensuration, land surveying, navigation, and algebra ; of the second class, spelling, reading, writing, arithmetic, English grammar, geography, history, and book-keeping ; of the third class, spelling, reading, writing, and arithmetic : the said first and second class Teachers shall impart to their pupils a knowledge of the geography, history, and resources of this Province and the adjoining Colonies. Female Teachers of the first class to teach spelling, reading, writing, arithmetic, English grammar, geography, history, and common needlework ; of the second class, spelling, reading, writing, arithmetic, English grammar, geography, and common needlework ; of the third class, spelling, reading, writing, arithmetic, and common needlework.

2. The Board may licence Teachers of the third class, not having attended the Training School, who shall obtain from the local Inspector to the Superintendent a certificate that they possess the necessary qualifications, and are of good moral character.

3. No unlicenced Teacher shall be employed in any School District.

4. Every Teacher shall faithfully teach all the requisite branches of education, and according to the terms of his agreement with the Trustees; he shall keep a daily register, maintain proper order and discipline, use the forms and carry out the regulations from time to time provided, keep a visitors' book and enter therein the visits of the Inspector and the Trustees respectively, and by precept and example seek to impress his scholars with the principles of religion, morality, and loyalty. No pupil shall be required to read or study in or from any religious book, or join in any act of devotion objected to by his parents or guardians.

5. When a School has been taught for a period of not less than six months, the Teacher shall exhibit to the Inspector the original register and all documents prescribed by the Superintendent, and duplicates thereof, for inspection, and when returned, countersigned by the Inspector, with the certificate prescribed by Section 16 of Chapter 49, he shall transmit the same forthwith by post to the Superintendent.

6. The Teachers shall receive from the Treasurer according to the following annual rates:—Male Teachers of the first class, thirty pounds; of the second, twenty four pounds; of the third, eighteen pounds. Female Teachers of the first class, twenty two pounds; of the second, eighteen pounds; and of the third fourteen pounds.

7. No Teacher shall be paid for a less period than six months, without the sanction of the Board, nor in any case unless the inhabitants shall have raised by assessment or paid for his support in the same proportion as the Provincial allowance, or shall have furnished him board, washing, and suitable accommodation during his engagement.

8. Ten or more resident freeholders or householders in any Parish, or five or more resident freeholders or householders in any School District, at their own cost may apply to the School Trustees to call a public meeting as directed in this Title, and a majority of the rate payers on property present at such meeting (there being not less than twenty in the case of a Parish, nor less than ten in case of a School District) who shall agree to raise any sum by assessment either for the support of the Teacher, the purchase of land to erect thereon a School House, the supplying such School with fuel, light,

and other necessaries, the building or repairing of any School House, the purchase of any books, maps, or apparatus for the use of any such School, or for any of such purposes, the sum so voted shall be assessed upon and collected from the inhabitants of such Parish or District and the non-resident free-holders, in the same manner as taxes for the support of the poor are by law assessed and collected, and when collected shall be paid into the hands of the Trustees to be expended as prescribed in this Title.

9. Any Parish or District putting into operation the principle of assessment as aforesaid, and the sum required for the Teacher being assessed and paid, shall, for every year such assessment is so made and paid, receive from the Province Treasurer twenty five per cent. over the allowance to Schools of the same class in Parishes or Districts not so assessed; the tuition money, in case of such assessment, not to exceed two shillings and six pence per quarter.

10. The dismissal of a Teacher by the Trustees shall be final, and his licence cancelled, unless he appeal within thirty days to the Board.

11. All persons appointed to sell books and apparatus shall, on or before the thirty first day of December in every year, make a return of the number sold and number on hand, with an account of the money received during the year; the return and money to be sent to the Superintendent.

12. Any Trustee who shall not expend the moneys received by him under the provisions of Section 8 of this Chapter, or who shall misapply the same, shall pay twenty pounds for each offence, to be recovered by any freeholder of the Parish or District; when recovered to be applied one half to the prosecutor, the other for the benefit of the Schools of the Parish or District.

13. In every incorporated County the taxation and assessment for the support of Parish Schools shall be regulated under the Title of Municipalities, so as not to interfere with the amount to be assessed.

14. Any Trustee who shall knowingly sign a false report, any Teacher who shall keep a false register or make a false return, or any Inspector who shall make a false report, shall for each offence pay ten pounds; when received it shall be

paid to the Trustees of Schools for the Parish, to be applied by them for the benefit of the Parish Schools.

15. A copy of the memorandum mentioned in Section 21 of Chapter 49, and of the plan (if any) therein referred to, certified by the Clerk of the Peace with whom filed, shall be evidence of the laying off of such Districts by the Trustees therein named, and of the bounds thereof.

16. The Governor in Council shall issue Warrants on the Provincial Treasury for the payment of the several allowances and salaries mentioned in this Title.

17. No Teacher shall make application to the Legislature by petition or otherwise for any appropriation for teaching, unless recommended by the Superintendent and sanctioned by the Board.

18. The Chapters of this Title shall continue in force until the first day of May one thousand eight hundred and fifty five.

TITLE VIII.

OF THE LOCAL GOVERNMENT OF COUNTIES, TOWNS, AND PARISHES.

CHAPTER 52.

OF PARISH AND COUNTY OFFICERS.

Section.

1. Town and Parish Officers, when elected.
2. How elected.
3. Duty of Chairman at meeting.
4. Proceeds; go therent.
5. List, how dealt with.
6. Confirmation of officers, and continuance in office.
7. When Sessions may supply appointments.
8. What officers to be appointed by Sessions.
9. Duty of Clerk Peace as to Lists.

Section.

10. Penalty for neglecting to qualify, &c.
11. Special Constable, appointment, oath.
12. Disqualification for office.
13. Treasurer to give security.
14. His duty as to Accounts, &c.
15. Treasurer, what release sufficient.
16. Special Sessions, how called.
17. Quorum.
18. Timber Drivers' duties.
19. Regulations, by whom made.

1. As many of the following Town and Parish officers as may be deemed necessary, shall be annually elected in and for every Town or Parish now or hereafter to be erected:— Three Overseers of the Poor, two or more Constables, three Commissioners of Roads, one or more Collector of Rates, one Town or Parish Clerk, two or more Fence Viewers, two or

more Pound Keepers, one Clerk of the Market, two or more Hog Reeves, two or more Boom Masters, one or more Surveyors of Dams, one or more Inspectors of Butter, one or more Sealers of Leather, one or more Surveyors of Grindstones, three Assessors of Rates, three or more Surveyors of Roads, one or more Field Drivers, and one or more Timber Drivers.

2. The same to be elected as follows:—On the Tuesday next preceding the Sessions at which Term Parish officers are to be appointed, the rate payers on property in the Parish who have paid their rates for the year previous, to be first proved by the Collectors' receipt or list, or as many of them as choose shall attend, fourteen days notice of the time and place of meeting being given by the Clerk, by putting up hand bills in six or more of the most public places in the Parish; if the Clerk neglect to give such notice, or if there be no Clerk, two Justices shall appoint a Clerk for the occasion, who shall give at least seven days' notice as aforesaid, and a Chairman shall then be elected for the meeting, of which the Clerk shall act as Secretary; but the place of meeting for the Parish of Glenelg shall be at or near John M'Kay's residence, Richibucto road, and for Hardwicke, at or near Robert Noble's residence, County of Northumberland.

3. The Chairman shall call upon the meeting to propose separately the persons they wish to fill the above offices, putting each proposal separately to the meeting, and decide as to the majority of votes.

4. The name of the person elected shall be written down by the Clerk and read aloud before another officer is elected.

5. When all officers are elected, a correct list thereof certified by the Chairman, attested by the Clerk, and forwarded by the Chairman to the Clerk of the Peace of the County, shall be laid before the next Sessions at its opening.

6. The persons elected and certified shall be confirmed in their offices by the Sessions for one year.

7. Should there be no election of officers, or not a sufficient number chosen, or no certified list laid before the Court, the Sessions shall make the necessary appointments.

8. The Sessions shall if necessary appoint a County Treasurer, a County Auditor, three Trustees of Schools for each Parish, and so many Overseers of Fisheries, Inspectors of

Fish, Wharfingers, Port Wardens, Harbour Masters, Pilots, and Firewards, as they deem necessary; no Pilot shall be appointed unless first recommended by the major part of the Port Wardens.

9. The Clerks of the Peace respectively of each County shall within one week after the end of the Sessions where Town and Parish officers are confirmed or appointed, furnish the Town Clerks of the respective Parishes with certified lists thereof, who shall within six days thereafter post up lists of the officers so appointed in three or more public places in their respective Parishes; and every officer so elected or appointed and notified, shall within six days thereafter make oath before a Justice to fulfil the duties of his office, and such Justice shall give notice thereof to the Clerk of the Peace.

10. Any person elected or appointed to an office, refusing or neglecting to make the necessary oath, or perform the duties of the office, shall for each offence forfeit forty shillings, and if such person be the Parish Clerk he shall forfeit for each offence five pounds.

11. Any two Justices may appoint so many persons as they shall think fit to act as special constables for any Parish, with the powers and immunities of other constables, and shall administer to each of them the following oath:—

‘I do swear that I will faithfully, without favour, affection, or ill will, discharge the duty of special constable, and that I will cause the peace to be kept and preserved to the best of my power while I continue in office.—So help me God.’

12. No Justice of the Common Pleas, Justice of the Peace, Sheriff, or Coroner, shall hold any other office by virtue of which they have to account to the Sessions for the receipt, expenditure, or payment of public moneys.

13. The County Treasurer shall, before he enters upon the duties of his office, give security to the satisfaction of the Sessions for the due application of all moneys he may receive as such Treasurer, and for the faithful discharge of such duties.

14. Such Treasurer shall keep correct books of entry and accounts, and when required by the Sessions shall lay before them full and correct accounts of all sums of money received and paid by him and on what account, and the vouchers therefor.

15. The discharge of the Sessions shall be a sufficient release to the County Treasurer.

16. Any two Justices may require the Clerk of the Peace to call a Special Sessions at any time, the Clerk to give notice thereof to all Justices of the County, informing them at the same time of the object of such Sessions, to which the business shall be confined.

17. Five Justices shall constitute a quorum at such Special Sessions.

18. The Timber Drivers hereby elected, when called upon by any person interested, shall proceed to the River and take charge of the timber drive, determine the number of hands, rigging, and implements required for the work, and apportion the number of men and materials to be furnished by each owner thereof. If any party shall not within two days after notice in writing from the driver furnish such men and materials, they shall be provided by the Driver, who shall hold the drive and have a lien thereon for all expenses, together with his own fees; and if the same be not paid within sixty days after arriving at the rafting ground or market, he may sell the said drive or any part thereof, for the payment of the expenses and fees, first giving the owner notice, if in the Province, and advertising the same for thirty days in three or more public places of the Parish where the property may be.

19. The General Sessions may at any time make regulations respecting the duties of such Driver, and establishing his fees.

CHAPTER 53.

OF RATES AND TAXES.

Section.

1. When Sessions to grant Warrant of Assessment.
2. What persons Overseers may compel to work, punishment for refusal.
3. When Assessors may appeal.
4. Other Parish not to be affected.
5. What rate to be allowed, and when.
6. Certiorari, when allowed.
7. On what affidavit.
8. Rate, &c., when quashed, costs.
9. No action when rate quashed.
10. When rate repaid.
11. Poll Tax, amount, residue of assessment
12. Assessors receiving Warrant, notice.
13. Assessors' meetings, proceedings.
14. When to deliver List, &c., to whom.

Section.

15. French inhabitants, from what and when exempt.
16. Who deemed owner, for assessment.
17. What Corporations liable to rate, exceptions.
18. For what stockholders not to be assessed.
19. Who deemed inhabitants.
20. Persons furnishing statement, how rated.
21. Assessment exceeding order, when valid.
22. When party may appeal, remedy.
23. Collector to give security.
24. Collector's duty.
25. Delinquents, proceedings against.
26. Delinquent non-residents, ditto.
27. Collector, when to pay moneys, &c.
28. Discharge to Collector.

Section.

29. Clerk of Peace, &c., performance of duties after time sufficient.
 30. Who may punish delinquent Collectors.
 31. Errors in Lists, when corrected.
 32. Allowance to Assessors and Collectors.
 33. Compensation to Clerk Peace, &c.

Section.

34. Compensation to Special Constables.
 35. Allowance to Sheriff, &c.
 36. Rewards.
 37. Contingent Fund insufficient, how increased.
 38. Definition of Terms.

1. The Overseers of the Poor shall annually, at such time as the Sessions shall appoint, lay before them a correct statement of the number and condition of the poor in their several Parishes, and the sum required therefor; which shall be examined and allowed by the Sessions, who shall forthwith by Warrant (A) order the same to be assessed and collected.

2. Any two of said Overseers, with the consent of two Justices, shall oblige any idle, disorderly person, rogue, or vagabond, who is likely to become chargeable on the Parish where he resides, to labour for any person who may employ him; if such poor person has children in a suffering condition, any two Overseers, with consent aforesaid, may bind such children apprentices, if males until twenty one, if females until eighteen years of age; and if any such idle, disorderly person, rogue, or vagabond shall refuse to labour, such Justices may commit them to the common gaol, house of correction, or Provincial Penitentiary, to be kept at hard labour for a term not exceeding forty days.

3. If the Assessors consider that the Parish for which they are appointed is overrated, they may appeal to the next Sessions, who shall hear and finally determine the same.

4. The rate of no other Parish assessed thereby shall be quashed upon such appeal.

5. No new rate shall be made until it shall appear to the Sessions that three fourths of the money collected by virtue of the preceding rate have been expended for the purpose intended.

6. No certiorari to remove any rate, or proceeding touching such rate, shall be granted unless at the next Term after the Term of appealing, nor until good security be given to the County Treasurer in one hundred pounds, to prosecute the same with effect, and pay all costs should the rate or other proceedings be confirmed.

7. The Court before granting the certiorari must be satisfied by affidavit that the merits of the question are within their cognizance.

8. No rate or other proceeding shall be quashed for defect of form only, and all costs shall be paid out of any rate upon the same Parish.

9. No action shall be brought against any person employed in collecting any money assessed on any rate that may be quashed.

10. Money paid on any rate quashed shall be repaid to the person entitled thereto.

11. One eighth and no more of the whole amount ordered to be assessed for County, Town, or Parish charges, by virtue of this or any other Chapter, shall be assessed and collected by an equal rate as a poll tax on all male persons being twenty one years of age, not being paupers, and by a rate in just and equal proportion upon the real estate situate in such Parish, whether of residents or non-residents, and upon the personal estate and incomes of the inhabitants of the same, subject to the regulations hereinafter contained.

12. The Assessors on receiving the warrant shall forthwith post up notices thereof in three of the most public places in the Parish, and publish the notice in a Newspaper, if any be printed therein.

13. The Assessors shall thereafter meet without delay, and they shall prepare a List (B) in manner and form as set forth in the Schedule to this Title.

14. The Assessors within sixty days after the receipt of the warrant, shall deliver to the several Collectors of the Parish lists signed by them, and shall endorse thereon a Precept (C) containing the names of all the persons rated within the respective districts of such Collectors ; the Assessors shall transmit a duplicate thereof, with the warrant, in ten days after the list is completed, to the Clerk of the Peace to be filed ; any Assessor neglecting to perform his duties as such shall be liable to the penalty of ten pounds.

15. The Sessions may, at any time they think proper, exempt the French inhabitants resident in any Parish, in any order of assessment for the support of the poor, in whole or in part ; such exemption shall be expressed in the warrant, and the Assessors shall conform thereto.

16. For the purposes of assessment the mortgagor or mortgagee in possession shall be deemed the owner.

17. The real and personal estate of all joint stock Corporations shall be assessed under this Chapter, and for that purpose the President, Agent, or Manager of any such Corporation shall be deemed the owner of such estate, and shall be dealt with accordingly; the principal place of carrying on their business shall be deemed the place of inhabitance; such President, Agent, or Manager, in regard to such estate, shall be assessed separately and distinctly from any other assessment to which he may be liable, and he may recover from such Corporation any assessment he may have been required to pay for the same; but the Corporation of the City of Saint John or Fredericton, or of any literary or charitable society or institution, shall be exempt from any assessment under this Chapter.

18. No stockholder of any such Corporation shall be assessed for any property or income derived from such Corporation.

19. For the purposes of assessment every person carrying on business in any Parish shall be deemed an inhabitant thereof.

20. Any person liable to be assessed may, within thirty days after publication of the notice prescribed by Section 12 of this Chapter, furnish the Assessors with a statement on oath in writing of his real estate in the Parish, and of his personal estate and income, specifying therein the value of the real estate, and the amount of his income and personal estate, deducting from his personal estate the just debts he owes; and such person shall be rated accordingly.

21. Every assessment made or to be made shall be legal, if the aggregate amount thereof shall not exceed the amount ordered to be assessed more than ten per cent.

22. Any person may appeal to the next Sessions after he has had notice of the assessment, and if the Sessions consider him entitled to relief they may direct the sum overrated not to be collected, and if collected to be repaid.

23. The Sessions may require the Collectors severally to give security for the faithful discharge of their duty in a sum not less than two hundred pounds, by Bond to the Crown, with sureties.

24. Each Collector shall immediately after receiving the said list and precept, demand and collect the several sums

from every person as named therein, and, if required, give a written statement to such person of the several amounts for which he is assessed, and where a personal demand cannot be made, shall leave a written or printed notice containing such statement and the time the same is to be paid, at the last place of abode of such person, with some adult member of his family ; or in case of his carrying on business in a Parish, and not residing therein, the statement to be left with his Clerk or Agent, at his place of business.

25. If any person assessed residing in the Parish or in the County neglect to pay his rate in ten days after such demand or notice, the Collector shall apply to a Justice, who upon oath being made by the Collector that the rate after demand or notice has not been paid, shall issue Execution (D) against such person. The Constable receiving the execution shall forthwith execute the same. If the defendant be imprisoned he shall not be detained more than one day for every two shillings of the amount to be levied, nor more than fifty days in the whole if the same exceeds five pounds ; at the expiration thereof he shall be discharged, the execution to remain in force against the property of the defendant for twelve months after such discharge.

26. The Collector may, in his own name in any Court having jurisdiction, sue any person assessed, not residing in the County, for his rate ; and an extract from the list containing the rate of such person, certified by the Clerk of the Peace, shall be conclusive evidence of the assessment ; or he may give public notice of such assessment in any Newspaper published in the County, and if there be none, then in the Royal Gazette for three months. If the same be not then paid, with the expense of such notice, any two Justices, on the application of such Collector, shall issue their Warrant (E). The Sheriff to whom the warrant is directed shall execute the same according to the exigencies thereof, and shall execute a deed to the purchaser of the property.

27. Every Collector on the first Monday in every month shall pay over to the person authorized to receive the same, all moneys received by him during the previous month, with a list of persons from whom he received the same, and shall in four months after the receipt of the Precept file with the Clerk

of the Peace a true account of every sum of money so by him received, with vouchers for the sums paid, and a correct list of defaulters, verified on oath, and the list given him by the Assessors.

28. The receipt of any person duly authorized to receive rates collected shall be a sufficient discharge to the Collector.

29. Should the duties to be performed by any Clerk of the Peace, Assessor, or Collector, be neglected to be done within the time for such purpose limited by this Chapter, the performance thereof thereafter by such persons shall be good for the purposes of this Chapter.

30. If any Collector neglect any of the duties imposed upon him by this Chapter, any General or Special Sessions may order him (F) to be brought before them. The officer receiving such order shall execute the same according to the exigencies thereof. The said Sessions, on the Collector being brought before them, may, if they see fit, commit him to gaol until he shall have purged the contempt, unless they, on cause shewn, deem it proper to discharge him.

31. If any error in the preparation of the list by the Assessors be made, they may at any time before a subsequent rating correct such error in such list.

32. The Assessors and Collectors respectively shall be allowed for their services by the Sessions a sum not to exceed in the whole fifteen per cent. on the assessment; the amount so allowed shall be included in the warrant, and collected and paid to the County Treasurer for that purpose.

33. The Sessions may allow to the Clerk of the Peace, County Treasurer, and other County officers, not being Justees, such compensation as they may deem just, the same to be included in and collected as other County rates.

34. When it is found necessary to appoint special constables the Sessions may allow such a sum for their services and expenses as they deem meet, and if necessary, may order an assessment upon any Parish for payment thereof; not more than one fourth part of such assessment to be levied as a poll tax.

35. Any Sessions or Special Sessions may make allowance to the Sheriff or other officer for any service performed by them in the execution of their offices, and may order the same to be paid out of the contingent fund.

36. Any Sessions or Special Sessions may offer and pay any reward they deem proper to promote the due execution of the laws, for the apprehension of any person charged or suspected of felony, and may order the same to be paid out of the contingent fund.

37. If the contingent fund for the year shall not be sufficient to meet the expenses payable under the two last Sections, the Sessions may direct what amount shall be assessed for the same, in addition to the annual assessment for said County, which amount when collected shall be paid to the County Treasurer for the purposes aforesaid.

38. The term "real estate" or "property" in this Chapter shall mean land, and any erection thereon, or any term of years therein; and the term "personal estate" shall mean all goods, chattels, moneys, and effects, and good debts of all descriptions, and all public stocks in any incorporated Company in this Province, except in Section 17 of this Chapter, where it shall mean the amount of paid up capital stock of any Corporation at its correct value at the time of assessment.

CHAPTER 54.

OF BUILDINGS, OFFICES, AND SCHOOL RESERVES.

Section.

1. When Sessions may order Assessment for gaol, &c., how levied, &c.
2. Extent of Assessment for public buildings, &c.
3. Sessions may contract for same; application of proceeds.
4. Buildings, for what offices.

Section.

5. What grants to Justices good.
6. What lands Justices may hold in trust.
7. What School lands vested in Justices; rents, &c., how applied.
8. Sessions may lease land, how, on what terms.
9. Justices, by what name to sue, &c..

1. Whenever it may be necessary to build, secure, or repair a gaol, court house, lock-up house, or other public County buildings, any Sessions, upon the presentment of the Grand Jury recommending the same, may order such assessment for the same from time to time as they think necessary, to be assessed, levied, and collected in like manner as prescribed for other rates by this Title.

2. The Sessions when they think it expedient, may order an assessment not exceeding three hundred pounds for erecting suitable buildings, with safes of stone or brick, near the Court House, for the safe keeping of the Records of Deeds

and Wills, and the Papers and Records of the Common Pleas and Sessions ; the same to be assessed, levied, collected, and paid according to the provisions of this Title.

3. The Sessions, by the name of "The Justices for the County of _____," may contract with any person for the erection, securing, or repairing of any such public building, and apply the proceeds of any assessments made therefor to the performance of the contract.

4. All buildings erected according to Section 2 of this Chapter, shall be used for the several Offices of Registrar of Deeds and Wills, and Clerk of the Peace for the County.

5. All grants of lands heretofore made to the Justices of any County for public uses, shall be good.

6. The Justices of any County, by the name aforesaid, may receive and hold in trust for the public uses therein specified, any grant of lands, and may execute the trust thereof, which shall be good in law and equity.

7. All lands in any County reserved for the use of Schools, and not already granted by the Crown, are hereby vested in the Justices of the County where the same are situate, to be by them held the same as if granted, the rents and profits thereof to be applied by them for the support of the Parish Schools in the Parish in which such lands lie.

8. The Sessions, by the name aforesaid, may lease by public auction, for a term not exceeding twenty one years, any such land on such terms as they shall deem most beneficial to the trust.

9. The said Justices, by the name aforesaid, shall be capable in law to bring and defend any action whatever on account of any such lands.

CHAPTER 55.

OF CONTINGENCIES AND ACCOUNTS.

Section.

1. Money for Contingencies, how raised.
2. Clerk, when to issue Warrant.
3. Claim against Parish, when allowed.
4. Accounts, when to be laid before Grand Jury ; their duty. What Accounts to be paid.

Section.

5. Accounts of Overseers, &c., before whom, to be laid.
6. County Accounts, where to be filed, &c.

1. Where it is necessary to raise any sum of money for the payment of the contingencies of the County, the Sessions shall

lay before the Grand Jury a detailed statement, shewing how the sum required is made up, and if they approve of the same the Sessions may order an assessment for that purpose, but not otherwise.

2. Whenever the Sessions order any assessment for any purpose, the Clerk of the Peace shall make out the Warrant (A) under the Seal of the Sessions, and shall forthwith transmit the same to the Assessors of the several Parishes, under the penalty of ten pounds for every neglect.

3. No claim against any Parish or County shall be allowed by the Sessions unless the same be filed with the Clerk of the Peace one hour after the opening of such Sessions.

4. At the time of appointing Parish officers a full and detailed statement of the County and Parish Accounts shall be laid before the Grand Jury immediately after the opening of the Court, the same to be returned into Court on or before the Friday following with such Presentment as they may choose to make thereon, and no account shall be paid which has not been so laid before the Grand Jury.

5. The Overseers of the Poor, Collectors of Rates, and Commissioners of Highways respectively, shall lay before the rate payers at the time of the election of Parish officers, for examination, a copy of their accounts, before such election takes place.

6. The County Accounts shall be filed in the office of the Clerk of the Peace, and shall at all times be open for the inspection of any rate payer without fee.

CHAPTER 56.

OF ACTIONS AGAINST OFFICERS AND RECOVERY OF PENALTIES.

Section.

1. Limitation of action, notice, venue.
2. Plea; when Defendant to have verdict.
3. What copies evidence.

Section.

4. Persons acting as Parish Officers, &c., when deemed qualified.
5. Who competent witnesses.

1. No action shall be brought against any person for anything done by virtue of an office held under any of the provisions in this Title, unless within three months after the act committed, and upon one month's previous notice thereof in writing, and the action shall be tried in the County where the cause of action arose.

2. The defendant in any such action may plead the general issue and give any part of this Title and the special matter in evidence. If it appear that the defendant acted under the authority of this Title, or of any regulations made by the powers conferred thereby, or that the cause of action arose in some other County, the jury shall give him a verdict.

3. A copy of any regulations made under the provisions of any Chapter in this Title, certified by the Clerk of the Peace, shall be evidence in all Courts.

4. All persons acting as Parish or County officers shall be deemed to have taken the oath of office.

5. The inhabitants or rate payers of any Parish or County where the prosecution for the recovery of any such fines or penalties shall be had, shall be competent witnesses.

CHAPTER 57. *Repealed in part* OF BASTARDY.

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Section.

1. When Justice to issue Warrant.
2. Proceedings on arrest.
3. When party to be discharged.
4. Woman, when not compelled to attend, &c.
5. Order of filiation, &c., when to be made.
6. When Sessions to hear evidence, &c.
7. Corroboration of mother's evidence.
8. Making Order, postponement of.
9. When Order to be made; expenses.
10. How long in force.
11. Father, what to pay, when; recognizance.
12. Punishment for neglect.

Section.

13. When Court may discharge party.
14. Amount of recognizance.
15. When Bond, &c., recoverable before Justice.
16. When by scire facias.
17. Upon return, what proceedings.
18. Payment and application.
19. Parties on recognizance, when relieved.
20. Execution of scire facias; fees.
21. Sheriff's fees, how levied, &c.
22. Copy of proceedings, when evidence.
23. Commissioners of Almshouse, what deemed.

1. If any single woman shall on examination before any Justice make oath that she has been or is likely to be delivered of a bastard child, which will be chargeable to any Parish, and shall charge any person therewith, such Justice, on the application of an Overseer of the Poor, shall issue his Warrant (G) to apprehend the person.

2. Upon the person being brought before a Justice he shall be committed to gaol unless he give Security (H) to indemnify the Parish, or enter into Recognizance (I) with sureties to appear at the next Sessions and abide the order.

3. If the woman marry or die before she is delivered, or shall miscarry, or was not pregnant at the time of the examination, he shall be forthwith discharged by Warrant (K) of a Justice.

4. No Justice shall send for any woman until one month after she is delivered to take such examination, or to compel her to answer any questions relating to her pregnancy before she is delivered.

5. If the person appear according to his recognizance and do not deny or traverse the charge, the Sessions shall make an Order of filiation and maintenance (L.)

6. If the person appear and traverse the charge, the Sessions shall hear the evidence, and if satisfied the person is the father of the child they shall make such order as to them may seem just.

7. If the order be made on evidence of the mother it shall be corroborated in some material particular by other evidence if the Sessions deem necessary.

8. The consideration of or making such order may be postponed from time to time upon sufficient reasons, and the person shall renew his recognizance.

9. No such order shall be made until after the child becomes chargeable ; such order shall not exceed the expenses, past and future, for the support of such child while chargeable, the lying in expenses, and the expenses of apprehending and convicting the person charged.

10. Such order shall continue in force only until the child shall attain the age of seven years.

11. The father on receiving notice of the order in the three preceding Sections, shall pay to the County Treasurer for the use of the Parish interested, the sums so ordered for expenses already incurred as aforesaid, and shall enter into Recognizance (M) with sufficient sureties for the future support of the child.

12. If the father neglect to perform such order or to give such recognizance, the Sessions may commit him to gaol until he do so or be otherwise discharged.

13. If the father be wholly unable to comply with such order or give such recognizance, the Sessions may at any time order him to be discharged.

14. No recognizance under any Section of this Chapter shall exceed the penal sum of fifty pounds.

15. When any bond or recognizance taken by virtue of any Section in this Chapter shall become forfeited, and the

damages actually due thereon do not exceed five pounds, the same may be recovered with costs before any Justice.

16. When such damages exceed five pounds the Clerk of the Peace, at the instance of the Overseers of the Poor, shall forthwith issue a Scire Facias (N) for the recovery of the same, which shall be served at least fourteen days before the return thereof.

17. Upon the return thereof duly served, the Sessions, whether the defendant appear or not, may proceed in a summary manner to determine the question; if the bond or recognizance be forfeited, they shall enter Judgment thereon (O) and award Execution (P).

18. The amount collected under the execution, exclusive of costs, shall be paid to the County Treasurer, and applied for the support of the Poor of the Parish interested; the costs shall be paid to the Clerk of the Peace.

19. The Sessions may in their discretion make such order, and give such relief on any recognizance taken by virtue of this Chapter, and on such conditions as they may think proper.

20. The Sheriff shall execute such scire facias or execution according to the exigencies thereof, and be entitled to the same fees as in like cases.

21. If such execution be levied by or paid to the Sheriff, he may levy or receive his fees for service and poundage thereon from the defendant; if not so levied and received he shall be paid out of the contingent fund of the County.

22. A copy of any proceedings under this Chapter, certified by the Clerk of the Peace, shall be evidence of such proceedings in all Courts.

23. In any Parish for or in which an Alms House or Poor House is established, the Commissioners thereof in all respects shall be deemed the Overseers of the Poor of such Parish for all the purposes of this Chapter.

CHAPTER 58.

OF INFECTIOUS DISTEMPERS.

Section	Section.
1. Health Officers, appointment; powers and fees.	4. What regulations invalid.
2. Sessions to make sanatory regulations, impose fines, &c.	5. Regulations when confirmed or cancelled.
3. To make regulations as to quarantine, &c.	6. Proceedings for penalties.
	7. In whose name to be recovered; application.

1. Any Sessions or Special Sessions called for that purpose may appoint by warrant under their seal as Health Officers two Physicians, and define and regulate their powers and duties, and establish their fees.

2. The Sessions may make such regulations for the prevention and removal of nuisances injurious to health, for the promotion of cleanliness, and preventing the spreading of contagious or infectious distempers, or leprosy, or loathsome disease, as they may deem proper ; and impose fines and penalties not exceeding in any case ten pounds.

3. The Sessions may make such further regulations for preventing the introduction and spreading of any contagious or infectious distempers, or the performing of quarantine by any vessel, or prohibiting any person from landing from the same, or preventing any intercourse with such persons on board, as they may deem proper ; or to enforce such regulations, may impose fines and penalties, in any case not to exceed one hundred pounds.

4. No such regulations shall be of any effect which may be repugnant to any law.

5. A copy of all such regulations shall be forthwith submitted to the Governor and Council, who may confirm or cancel all or any part of them ; the same to be reported to the Clerk of the Peace, and not to take effect until so confirmed.

6. Any penalty not exceeding twenty pounds may be recovered before any two Justices where the offence may be committed ; if exceeding that amount, by action in the Supreme or Inferior Court ; and in either case upon affidavit made of the offence, and that the offender is about to leave the Province, a Justice, if the penalty does not exceed twenty pounds, or a Judge of the Supreme or Inferior Courts, if it does, shall issue a warrant for his arrest, and when arrested, shall cause him to enter into recognizance, with sufficient sureties, to appear and take his trial before the Court, or the Justices, as the case may be, and in default thereof to commit him to gaol to await his trial.

7. All penalties recovered under this Chapter shall be sued for and recovered in the name of the County Treasurer, and paid into the contingent funds of the County.

CHAPTER 59.

OF PREVENTING FIRES.

Section.

- 1. Firemen, appointment; registry.
- 2. Regulations, by whom made.
- 3. Firemen, from what exempt.
- 4. Firewards' powers as to fire-places, &c.
- 5. Their commands to be obeyed; penalty.
- 6. Assessment, extent, for what purpose.
- 7. Mode of assessment.
- 8. Accounts, before whom to be laid.
- 9. Punishment for neglect.
- 10. Limits of Town.
- 11. Kindling fires in woods, &c.; penalty, &c.
- 12. Additional powers of Firewards.

1. The Firewards shall appoint by warrant a sufficient number of able men in each Town, not exceeding fifty for each engine, who shall have the care and management thereof, whose appointments shall be registered by the Clerk of the Peace upon certificate of the Firewards.

2. The Firewards shall make such regulations as to the conduct and duty of the firemen, and impose such fines for the breach thereof, as a majority of them shall deem meet. No fine shall exceed forty shillings, and shall be recovered and applied as the Firewards shall direct.

3. All firemen shall be exempted from filling any Parish offices, and from the performance of statute labour.

4. Any two of the Firewards may at any time enter into any building in the Town, and if in their opinion danger may be apprehended from any stove pipe, oven, hearth, or chimney, they may by writing prohibit the lighting of fire therein until the alteration they direct in writing be made, and any person neglecting or disobeying such directions, shall forfeit and pay for each offence forty shillings.

5. The Firewards may severally command assistance for the extinguishing of fires, by forming persons into line for the conveyance of water, and for the removal and safety of goods; any persons disobeying such command may be sent by such Firewards to the gaol, or lock-up house, for a period not exceeding forty eight hours, and forfeit and pay forty shillings.

6. The Sessions are authorized to assess for any sum not exceeding three hundred pounds in any one year, as the Firewards by estimate in writing recommend to be necessary for the erecting and repairing engine houses, for purchasing, repairing, or keeping in order any fire engines, ladders, hooks, or other necessaries.

7. The same to be assessed and collected in like manner as

prescribed in this Title for other rates to be paid to the Firewards, and by them applied for the purposes intended.

8. They shall annually before their election or appointment render to the Sessions a particular account of the expenditure of all moneys received as aforesaid, and also of all fines.

9. If any Fireward neglect to render such account, the Sessions may order him to be brought before them by warrant, and may commit him to goal until he renders such account to the Sessions or to the County Treasurer.

10. The Sessions may define the extent of the Town for the purposes of this Title.

11. Any person who shall kindle a fire in any woods or open place, and leave the same burning without being properly secured, whereby damage may be caused to the property of any other person, shall forfeit a sum not exceeding twenty pounds, and be liable to an action for the damages sustained in addition thereto.

12. In addition to the special powers herein contained, the Firewards may make regulations for their own government, and the regulation and government of the firemen, and fire and other protection Companies, and generally for the management of the fire department, and the prevention and extinguishing of fires, and impose penalties for any breach thereof, not exceeding forty shillings in any one case; a copy of such regulations, as often as made, shall be filed in the office of the Clerk of the Peace for the County.

CHAPTER 60.

OF HARBOURS.

Section.

1. Regulations for mooring vessels, &c., by whom made.
2. Fines, to whom paid.

Section.

3. Harbour Master's fees.
4. His duties.

1. The Sessions may make regulations respecting the mooring and anchoring of vessels in the Harbours of the County, and discharging and depositing ballast, and impose such fines as they may deem right, not in any case to exceed twenty pounds.

2. Such fines, after deducting expenses of recovery not

otherwise provided for, shall be paid to the Commissioners of Buoys and Beacons, who shall account for the same as provided in Chapter 18 of Title III.

3. The Harbour Master may demand and receive as his fees from the master of every vessel entering any Harbour of the Province (coasters excepted) five shillings for every vessel above fifty and not exceeding one hundred tons, and ten shillings for every vessel above one hundred tons, and arriving from one port to another therein; vessels owned in this Province, or from any port in British North America, or from a fishing voyage, shall be considered coasters; and vessels of British register, not owned in the Province, under one hundred tons, whether trading between any of the above Colonies (Newfoundland excepted) and a port in this Province, shall only pay Harbour Master's fees four times in any year at one port.

4. The Harbour Master shall enforce the regulations, and prosecute in his name for all breaches thereof, and furnish any Pilot of the port and the master of every vessel he may take in charge with a copy thereof.

CHAPTER 61.

OF FENCES, TRESPASSES, AND POUNDS.

Section.

1. Improved lands, fences between, how erected, &c.; disputes, how settled.
2. Fence Viewer's duties.
3. Neglecting notice, what he may direct.
4. Party employed, what may recover.
5. Fence viewer, how paid.
6. Penalty for neglect.
7. What fence need not be erected, &c.
8. Pound districts, how defined; Pounds erected, &c.
9. Cattle, when impounded; fees.
10. When enclosure may be used for Pound.

Section.

11. Rescue, penalty.
12. Pound breach, penalty.
13. Lawful fences.
14. When owners liable.
15. When not liable.
16. Jurisdiction of Justice.
17. Same in Replevin.
18. Bond.
19. Assignment of Bond.
20. Cattle impounded; proceedings.
21. Proceeds, disposal of.
22. Regulations for cattle going at large.

1. All line fences dividing improved lands shall be sufficiently erected and kept up at the joint and equal expense of the occupiers, and shall not be less than four feet six inches high; any dispute arising between the occupiers of such lands as to the erection and repair of any such fences, shall be settled by the nearest fence viewer on application made to him.

2. The fence viewer shall on such application give notice to the parties to attend; he shall then view the place where the

proposed erection or repair is to be made, and shall determine the portion thereof each party shall erect or repair.

3. If either party after six days notice of such determination shall neglect to comply therewith, the fence viewer may cause the same to be done, allowing for the labour thereof at the rate of five shillings per day, besides the expense of procuring the materials.

4. The person so employed may recover from the party so refusing all the expenses of making or repairing the same and furnishing materials, as provided in the preceding Section, with costs of suit, before any Court competent to try the same.

5. The fence viewer shall receive five shillings per day for his services, to be paid on demand by the party neglecting to repair or erect as aforesaid.

6. Any fence viewer neglecting his duty shall for each offence forfeit and pay forty shillings.

7. No owner or occupier of any woods, barren or unimproved land, although adjoining the improved lands of another, shall be obliged to erect or repair any such division line fence.

8. The Sessions may divide each Parish into as many Pound districts as they think proper, and may direct Pounds to be erected in each district. If the inhabitants of any district neglect to build the same, the Sessions may order an assessment, which shall be assessed and collected as other assessments.

9. Any cattle going at large contrary to any regulations made by virtue of this Title, the officer authorized may impound the same, and shall receive the amount specified in such regulations therefor, to be paid by the owner thereof, with the charges of the pound keeper, before the same are delivered from the pound.

10. If there be no public pound, or if it be not in a proper state, the pound keeper may use any proper enclosure for the time being, which shall be deemed a pound for that purpose.

11. If any person shall rescue any beast from a person lawfully taking such beast to pound he shall pay five pounds.

12. If any person shall make a breach in any pound, or shall unduly set at large any beast impounded, he shall pay ten pounds.

13. All sufficient fences four feet six inches high shall be lawful fences, whether line fences or otherwise.

14. Where a trespass is committed by breaking through any part of a division fence, which the owner of the cattle trespassing ought to keep in repair, the defect of such fence shall not be deemed an excuse for such trespass.

15. When any cattle shall break or escape into any close, no action shall be maintainable by reason thereof for any damage arising therefrom, unless such close be at the time under lawful fence, except the party complained of shall either by agreement or otherwise be bound to erect or keep in repair such fence, or where certain waters or water fences or gates may by law, or any regulations of the Sessions made in pursuance thereof, be made a lawful fence or enclosure.

16. In all cases of trespass by cattle where the damage does not exceed five pounds, the same may be heard before a Justice as in civil suits.

17. When necessary a Justice may grant a Replevin (Q), and on return thereof shall determine the same and grant execution, and shall receive such fees as hereinafter provided.

18. The officer before executing the same shall take from the plaintiff a Bond (R) with two sureties, the penalty not to exceed five pounds.

19. If the plaintiff fail to prosecute his suit within the time specified, the officer shall assign the bond to the defendant who may recover the same in his own name in any competent Court.

20. All cattle impounded as aforesaid and not liberated in three days after notice in writing advertised in three of the most public places of the district, may be sold at auction by the pound keeper after fourteen days public notice thereof, unless all charges and expenses incurred on account thereof be paid.

21. If he sell the cattle he shall pay all charges and expenses out of the proceeds, giving the overplus (if any) to the owner, should he not demand the same within fourteen days after such sale, he shall pay the same to the Overseers of the Poor of the Parish for the support of the Poor.

22. The Sessions may make such other regulations not inconsistent herewith for preventing trespasses by cattle and preventing cattle from going at large, and may thereby impose fines and penalties.

CHAPTER 62.

OF PROTECTION OF SHEEP AND MOOSE.

Section.

1. Dogs, when to be killed.
2. Sheep killed, remedy for.
3. Owner of dog, when liable to fine.
4. When owner to be imprisoned.

Section.

5. Warrant to kill dog.
6. In action for, defendant may plead general issue, &c.
7. Penalty for killing Moose.

1. If any dog shall maim or kill a sheep or lamb, the owner upon conviction before a Justice, shall cause the dog to be immediately killed.

2. The owner of any sheep or lamb so maimed or killed, may recover the damage sustained from the owner of the dog before any Justice with costs.

3. If the owner after conviction neglect to kill such dog, he shall be liable to a fine of twenty shillings for every time such dog shall be found running at large, the same to be recovered with costs as in the preceding Section.

4. If such owner have no goods whereon to levy, or neglect to pay the fine, he shall be imprisoned not less than four days.

5. After conviction the Justice may issue his warrant to a constable, requiring him forthwith to cause the dog to be killed, and any person may kill a dog running at large after it has been known to kill any sheep or lamb.

6. In any action against a person for killing a dog in such case, the defendant may plead the general issue, and give the special matter in evidence.

7. No person shall take, kill, wound, or otherwise destroy any moose between the first days of February and May in each year under the penalty of ten pounds for each offence, one half to be paid to the prosecutor, the other half to the Overseers of the Poor where the offence may be committed, for the use of the poor.

CHAPTER 63.

OF DAMS, SLUICEWAYS, AND FISHWAYS.

Section.

1. Surveyor's duty as to Sluiceways.
2. Proceedings.
3. Neglect of notice, effect.
4. Who to pay Surveyor.
5. What dams to have Fishways.

Section.

6. When notice to owner.
7. Neglect of owner, &c., punishment.
8. Fines, collection.
9. Certain rights not affected.

1. Any person requiring a Sluiceway to drive lumber over any dam erected or to be erected across a River shall call upon the Surveyor of Dams for the Parish where situate, who shall examine the same and report in writing to the Sessions his opinion as to the necessity therefor.

2. If he recommend the making a sluiceway, and the Sessions approve thereof, a notice in writing shall be forthwith served upon the owner or occupier, requiring the same to be made within such time as the Sessions may determine.

3. If such owner or occupier do not comply with such notice, the said dam shall be a public nuisance, and upon conviction of such owner or occupier upon an indictment therefor before the Sessions, he shall be fined in a sum not exceeding twenty pounds, and the Court shall order the nuisance to be abated.

4. The party so applying to the Surveyor of Dams shall pay him his necessary expenses and a reasonable allowance for his time.

5. In all dams erected across any River situate wholly or in part in this Province which has been or may be resorted to by fish from the sea at the season of spawning, there shall be a fishway sufficient for such fish to pass up and return without any hinderance.

6. If any such dam shall at any time be without such fishway the Overseers of the Fisheries shall give notice in writing to the owner or occupier thereof, to make a sufficient fishway therein within forty days after such notice.

7. Should such owner or occupier neglect to comply with the terms of such notice, the said dam shall be thenceforth a public nuisance, and such owner or occupier thereof being convicted on an indictment therefor before the Sessions, shall be fined not less than twenty nor more than forty pounds, and the nuisance shall be forthwith abated by order of the Court.

8. If such owner or occupier neglect to pay such fine, the Sessions shall issue a warrant for levying the same by distress and sale of the offender's goods; if none can be found the offender may be committed to gaol for four months unless the fine be sooner paid.

9. Nothing herein contained shall affect any law now in force concerning any River, nor regulations made under such law, or the common law rights of individuals.

CHAPTER 64.

OF RULES AND REGULATIONS.

Section.

1. Additional powers of Sessions.
2. What Cities not interfered with.
3. What regulations of no force.

Section.

4. Penalties.
5. Regulations as to Marshes, &c., by whom carried out.

1. The Sessions, in addition to the powers otherwise conferred upon them, may make regulations for the following purposes, namely :—

First.—For the establishment and regulation of markets, market houses, and fairs, and for the slaughtering of animals, and the sale of dead meats.

Second.—For the licencing and regulation of ferries, and fixing the rates and fares therefor, and for conveying passengers to and from steam boats on their passage along the rivers.

Third.—For the protection of streets, squares, side walks, and pavements, and of the posts, railings, trees, and other defences and ornaments thereof.

Fourth.—For the use and management of public docks, wharves, landings, and cranes, and fixing the rates of dockage, wharfage, and cranage.

Fifth.—For the regulation of carriages for hire, cartage and truckage, and the lading and unlading of vessels.

Sixth.—For the measurement of salt, coals, and wood, and fixing the rates therefor.

Seventh.—For the weighing of hay and straw, and fixing the rates therefor.

Eighth.—For the erection of and keeping in repair fences and gates across highways for the protection of intervalle lands ; none to be erected not heretofore authorized.

Ninth.—For the occupation and grazing of marshes, and other low lands and islands, and the erection of water and other fences and gates therein, and for determining what creeks, lakes, swamps, rivers, and fences, shall be deemed lawful enclosures for the same.

Tenth.—For the regulation of pounds, and fixing the fees and rates therefor.

Eleventh.—For the regulation of the fisheries, and of seines, nets, and fish weirs within rivers and harbours.

Twelfth.—For the regulation of School reserves, Town commons, and other lands for public uses.

Thirteenth.—For imposing and collecting a tax on dogs.

Fourteenth.—For the government of Pilots, and fixing the rates of pilotage.

Fifteenth.—For the regulation and management of booms for holding timber, logs, and other lumber, and for the driving of timber and logs; to fix the table of tolls for boomage, with the lien of the Boom-master therefor, and prescribe the mode of recovering and right of disposing of the lumber of any person for which such boomage may be charged, in default of payment, not interfering with any Corporation or person empowered by law to establish a boom.

Sixteenth.—For the preservation of the navigation of rivers and harbours.

Seventeenth.—For defining the gaol limits, not exceeding three miles nor less than half a mile from the goal.

Eighteenth.—For the regulation and management of work houses and goals.

Nineteenth.—For the marking of neat cattle and sheep.

Twenty tenth.—For preventing disorderly riding and driving on the public roads and bridges.

Twenty first.—For preventing the growth of thistles and other noxious weeds.

Twenty second.—For the destruction of mad dogs.

Twenty third.—For preventing the burning of woods by carelessly or wantonly firing the same.

Twenty fourth.—For regulating the assize of bread.

Twenty fifth.—For preserving the banks of rivers.

Twenty sixth.—For establishing lock-up houses in such parts of any County as may be necessary, and making regulations for the government thereof; and any officer having the custody of a prisoner may commit to such lock-up house until he can be removed to the common gaol; but no person under arrest in civil causes shall be detained therein more than forty eight hours.

Twenty seventh.—For preventing vice, immorality, and indecency in the streets, highways, and other public places.

Twenty eighth.—For restraining and regulating the licencing of all exhibitions, circuses, and other shows for hire or profit, and to preserve order thereat.

Twenty ninth.—For abating and removing all public nuisances.

Thirtieth.—For preventing and regulating horses, cattle, sheep, swine, goats, dogs, and geese running at large, and to kill such dogs as are found running at large contrary to law.

Thirty first.—For regulating the measurement of boards, shingles, lathwood, and other lumber, cordwood, and other fuel.

Thirty second.—For the inspection of dry and pickled fish, so that the barrel shall contain not less than twenty eight gallons, the half barrel not less than fourteen gallons, and the tierce not less than forty two gallons, and that there shall be three qualities of dry fish, namely, “Merchantable,” “Madeira,” and “West India.”

2. Nothing herein in any wise to interfere with the rights, powers, duties, authorities, or privileges of the Corporations of the City of Saint John or the City of Fredericton.

3. No such rules or regulations to be of any force which are repugnant to any law.

4. The Sessions may, by such rules and regulations, impose such fines and penalties, and ordain such forfeitures as they may deem necessary for the non-observance or breach thereof, not to exceed in any case ten pounds, and any Justice or Justices, having jurisdiction, shall have the power of fining to the extent so imposed or below at his discretion.

5. The Commissioners of Sewers, appointed or elected by virtue of any law, of marshes, low lands, or islands, are hereby empowered to carry into effect such rules and regulations as may be made relating thereto, and to assess the proprietors thereof for the necessary expenses.

SCHEDULE TO TITLE VIII.

FORMS.

(A)

Warrant of Assessment.

— to wit.

[L. S.]

To Assessor of the Parish of
You are commanded to levy and assess the sum of

pounds in and upon the said Parish of and cause the same to be collected and paid according to law. Sealed and dated this day of A. D. 18 .

By the Sessions.

E. F. Clerk.

(B)

Form of Assessment.

Assessment of the Parish of (*or District of the same, as the case may be*) in the County of in pursuance of a Warrant of the Sessions for the said County, to levy the sum of pounds for . Dated this day of A. D. 18 .

Names of Persons.	Poll Tax.	Real Estate within the Parish of Inhabitants.	Personal Estate of Inhabitants.	Real Estate of Non-resi- dents.	Annual Incomes.	20 per cent. of value of Property.	Amount to be taxed.	Total Assessment.
	s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
A. B.	1 4	300 0 0	100 0 0	0 0 0	50 0 0	80 0 0	130 0 0	2 13 4
C. D.	0 0	0 0 0	0 0 0	200 0 0	0 0 0	40 0 0	40 0 0	0 16 0
E. F.	1 4	0 0 0	0 0 0	0 0 0	20 0 0	0 0 0	20 0 0	0 9 4
G. H.	1 4	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 1 4

(C)

Precept.

To any one of the Collectors of Rates for the Parish (*or Town or District*) of

You are required to collect from the several persons named in the annexed Assessment, the sums set against their names respectively under the head "Total Assessment," amounting in the whole to the sum of and to pay the same when collected to the County Treasurer, (*or Overseer of the Poor, or otherwise, as the case may be.*) Dated this day of A. D. 18 .

E. F. }
G. H. } Assessors.
J. K. }

(D)

Execution.

County, ss.

To any Constable of the Parish of

Levy of the goods and chattels of A. B. within your Parish,
the sum of which has been assessed upon him, also
for costs, the whole being besides costs of levy-
ing this Execution, and have the money before me at my office
on the day of next, (*or instant*) to be paid to C. D.
Collector of Taxes; and for want of goods and chattels whereon
to levy, take the said A. B. and deliver him to the keeper of
the gaol for the said County, who is required to receive him
and keep him safely days, unless the same, with costs,
be sooner paid; and make return hereof at the day and place
aforesaid. Dated this day of A. D. 18 .

E. F. J. Peace.

(E)

Warrant to sell Property.

to wit.

To the Sheriff of the County of

C. D. of the Parish of in the County of having
been assessed in the Parish of (*or as the case may be*)
in the sum of and due notice according to law having
been given, and the same not having been paid, and A. B.
Collector of Taxes for the said Parish (*or as it may be*) having
applied to us, we do order and command you to sell at public
auction to the highest bidder, first giving thirty days notice of
such sale, so much of the real estate of the said C. D. situate
in the said Parish, as in your judgment shall be sufficient to
pay the said assessment, together with for the expenses,
besides your costs and charges, and make return hereof forth-
with to us. Dated this day of A. D. 18 .

L. M. J. Peace.
N. O. J. Peace.

(F)

Order to bring Collector before Sessions.

To any Constable of the Parish of

You are commanded to arrest A. B. Collector of Taxes for

the Parish (or District as it may be) of if he can be found, and bring him forthwith before the Sessions in and for the County of to be dealt with according to law. Dated this day of A. D. 18 .

E. F. Clerk.

(G)

Warrant to apprehend.

To any Constable of the Parish of in the County of

A. B. having on oath declared that she is like to be delivered (or has been delivered) of a bastard child which will be chargeable to the Parish aforesaid, and having charged C. D. therewith, I require you to apprehend the said C. D. and bring him forthwith before me or some other Justice, to be dealt with according to law. Dated this day of A. D. 18 .

J. S. J. Peace.

(H)

Bond of Indemnity.

— to wit.

On the day of A. D. 18 [the names and additions of the party and his sureties] personally appeared before me the undersigned, and acknowledged themselves to be jointly and severally indebted to the Queen in the sum of fifty pounds lawful money, upon condition if A. B. (or in case the reputed father be a minor, that if the person charged) shall at all times indemnify and save from all charges whatever, the Parish of for or on account of the support of a bastard child charged against the said A. B. by then this recognizance to be void, otherwise to be in force.

Taken and acknowledged before me,

G. H. J. Peace.

(I)

Recognizance to appear.

— to wit.

On the day of A. D. 18 [here insert names and additions of obligors,] personally appeared before the

undersigned, and acknowledged themselves jointly and severally indebted to the Queen in the sum of pounds lawful money, upon condition that if the said [first obligor] or if the person charged be a minor, if E. H. [the person charged] shall personally appear at the next Sessions for the County of to answer a charge against him of being the reputed father of a bastard child likely to become chargeable to some Parish in said County, and not to depart said Court without leave, then this recognizance to be void, otherwise in force.

G. H. J. Peace.

(K)

Warrant to discharge.

— to wit.

Satisfactory proof having been made before me according to law, that A. B. is no longer chargeable as the reputed father of a bastard child on the complaint of E. F., I do hereby require the said A. B. to be henceforth discharged from all liabilities as such. Dated this day of A. D. 18 .

G. H. J. Peace.

(L)

Order of Affiliation.

General Sessions of County, to wit.

The Queen at the instance of the Overseers of the Poor for the Parish of vs In the matter of the charge of Bastardy preferred by the Plaintiff against the Defendant.

A. B.

The said A. B. having appeared and denied the charge, and the same being heard, and the Justices having found the said A. B. guilty, We do adjudge that the said A. B. is the reputed father of the bastard child of which C. D. was delivered, and that he is chargeable with the support thereof: It is therefore ordered that the said A. B. do pay into Court the sum of for the expenses of the said C. D. on the birth of the said child, and the further sum of per week from the day of

last past, (being the day of the birth of the child) up to the date of this order, and also the further sum of per week, until the said child shall attain the age of seven years;

which said latter sum of per week is to be paid to the Overseers of the Poor of the Parish of weekly, and every week; and that the said A. B. do enter into the recognizance required by law for the payment of the same, and that he do further pay the other sum mentioned in this order, or be committed to gaol, there to remain until discharged by due course of law. Dated this day of A. D. 18 .

G. H. Clerk.

(M)

Recognizance upon Order of Affiliation.

On the day of A. D. 18 [*here insert the names and additions of the obligors*] personally appeared at the Sessions for County, acknowledged themselves jointly and severally indebted to the Queen in the sum of fifty pounds lawful money, upon condition if the said [*first obligor*,] or if he be a minor, then the person charged, if E. F. shall at all times obey and perform the order of the said Sessions made or to be made touching the support of a bastard child, while the same is chargeable in any Parish in the said County, of which child the said has been adjudged to be the reputed father, then this recognizance to be void, otherwise of force.

L. M. Clerk.

(N)

Form of Scire Facias.

To the Sheriff of the County of

You are commanded to make known to [*here names of obligors*] that they appear before the next Sessions for the said County on the Tuesday in next, to shew cause, if any they have, why execution should not issue against them on account of the failure of the condition of their recognizance to the Queen bearing date the day of A. D. 18 relating to a charge of Bastardy. Dated this day of A. D. 18 .

L. M. Clerk.

(O)

Form of Minute and Entry of Judgment.

At the Sessions held for County, on Tuesday the
day of A. D. 18 , before the Justices.

The Queen, at the instance of the Over- }
seers of the Poor for the Parish of }
vs A. B. }

It appearing that the said A. B. hath not performed the condition of a recognizance entered into by him in this suit, and having been duly served with scire facias and not appearing, (*or if appearing not shewing sufficient cause,*) it is adjudged that the said recognizance is forfeited, and that execution do issue against the said A. B. according to the effect of such recognizance.

(P)

Form of Execution.

To the Sheriff of the County of

You are commanded of the goods and chattels of in your Bailiwick, you cause to be made the sum of which has been adjudged by the Sessions of the said County due on his recognizance forfeited, and have that money at the next Sessions for said County on Tuesday the day of next; and for want of goods and chattels whereon to levy taken, the body of the said A. B. and him deliver to the keeper of the gaol of the said County until he pay the said sum of or be otherwise discharged, and make return hereof. Dated this day of A. D. 18 .

L. M. Clerk.

(Q)

Form of Writ of Replevin.

To any Constable of the Parish of

Replevy to A. B. his which he says C. D. unjustly detains, under pretence of having committed a trespass not exceeding five pounds, and summon the said C. D. to appear before me on the day of at o'clock in the noon, at my office, to answer A. B. for such detention.

Dated this day of A. D. 18 .

E. F. J. Peace.

(R)

Form of Replevin Bond.

We [*the names and additions of the obligors*] are jointly and severally bound to G. H. of the Parish of Constable, in the sum of to be paid to the said G. H. or his representatives. Sealed and dated this day of A. D. 18 .

The condition of the above is, that if the said A. B. [*first obligor*] shall within ten days from the date hereof, prosecute his said suit with effect against C. D. for unjustly detaining [*here specify property*], and do make return if the same shall be adjudged, then the above bond be void, otherwise to be of force.

Sealed and delivered }
in the presence of }

Assignment of Replevin Bond.

I G. H. Constable of the Parish of at the request of the defendant C. D., have assigned over to him the within replevin bond, pursuant to law. Dated this day of A. D. 18 .

G. H. Constable.

TITLE IX. OF ROADS.

CHAPTER 65.

OF THE GREAT ROADS.

Section.

1. Great Roads, termini of.
2. Width of.
3. Supervisors, appointment of.
4. Continuance in office.
5. To render Accounts to Secretary.
6. To give Bonds.
7. Their powers.
8. Allotments of road let by auction contracts.
9. When work to be done.
10. How to be paid.
11. Property incumbering roads, how disposed of.

Section.

12. Supervisors may procure materials for repairs, make entries, &c.
13. Not to alter roads except in certain cases.
14. What evidence of ownership; damages to owner.
15. Encroachment on roads punishable.
16. Obstruction of Supervisors, penalty for.
17. What plea, &c.
18. Limitation and notice of action, and tender of amends, &c.
19. Supervisor to make written entry and return of alterations, &c.
20. Compensation for his services.
21. When roads not to be altered.

1. The Roads herein described shall be the Great Roads of communication throughout the Province :—

From Fredericton to Saint John by way of the Nerepis : From the Market House in Fredericton by the present route to the Bridge across the Oromocto River ; thence by the road at present travelled to Vaughan's Point ; thence across the inlet at the head of South Bay to the point of intersection of the Great Road from Saint John to Saint Andrews ; thence by the present route to Carleton Ferry.

From Fredericton to Saint Andrews : From the Market House in Fredericton through the Hanwell Settlement ; thence through the Harvey Settlement to the River Magaguadavic, near Vail's ; thence to the River Digdeguash ; thence through the Turner Ridge Settlement to Connick's ; thence to Gilman's ; thence to Mallock's corner ; thence to the junction of the Commons Road (so called) ; and thence by the present route to Saint Andrews.

From Fredericton to Newcastle and thence to Restigouche : Crossing the River Saint John at the Ferry at Phœnix Square ; thence northeasterly, or thereabouts, through the woods to Hanson's Mills ; thence up the west side of the Nashwaak, crossing that River at the site of the present Bridge ; thence across the Portage to Boiestown ; thence on the south side of the South West Branch of the River Miramichi, down to Doak's ; thence crossing the said Branch of River Miramichi to the north side ; thence down the last mentioned side to M'Laggan's Mills on Bartholomew's River ; thence to Indian Town ; thence following the road as at present made and travelled, to Beaubair's Point ; thence crossing the North West Branch of the Miramichi to Newcastle ; thence to meet the road from Dixon's Ferry ; thence to Russell's meadows on the Little Bartibogue ; thence northeasterly to the Bridge over the Big Bartibogue River at Corrie's ; thence along the road as at present travelled to the Shire Town at Bathurst ; and thence crossing the Bathurst Bridge to Tatagouche Bridge ; and thence to Belledune Bridge ; thence to River Charlo at or near the head of the tide ; thence to cross at the mouth of Eel River ; thence on the present laid out line to Dalhousie ; and thence on to Campbellton ; thence following the south side of the Restigouche River by the present line to Mrs. Riddle's, opposite the mouth of the Metapediae River.

From Fredericton to the Canada Line : From the County

Court House in Fredericton, on the west side of the River Saint John, to Woodstock ; thence to the Grand Falls ; and thence to the Canada Line, through the Madawaska Settlement.

From Edmundston, in the Parish of Madawaska, in the County of Victoria, to the River Saint Francis in said County.

From Fredericton to Richibucto : Commencing at Barker's landing, opposite Fredericton, at the mouth of the Nashwaak Stream, in the Parish of Saint Mary's, in the County of York ; thence running by the line of the Petitcodiac Road to Newcastle, in Queen's County ; thence by the line of the Hardwood Ridge Road to the Gaspereaux River, crossing said River above the lower Mills, and following the Beckwith line to M'Donald's on the Richibucto River ; and thence following the Harley line to the Town of Richibucto.

From Fredericton to the Finger Board, by the following line or route, that is to say : From the County Court House in Fredericton, across the River Saint John, to the lower side of the Nashwaak ; thence to the Parish of Maugerville ; thence following the present road through that Parish, and the Parishes of Sheffield and Canning, to the Jemseg ; thence across the Jemseg, and following the new line of road lately explored by William Foshay and John Earle, crossing the Washademoak Lake at White's Point, to the old road ; thence by the present route to the Finger Board on the Great Road from Saint John to the Nova Scotia line.

From the Great Road running from Fredericton to the Finger Board at or near James Tilley's in the Parish of Sheffield, in the County of Sunbury ; to intersect the Great Road leading from Fredericton to the Bend of Petitcodiac at or near Pendleton's Mill, Little River.

From Saint John to Saint Andrews, by the following line or route, that is to say : From Carleton to Musquash ; thence to Magaguadavic ; thence to Digdeguash ; thence to Chamcook ; and thence to Saint Andrews.

From the City of Saint John to the Nova Scotia line, by the following line or route, that is to say : From the City of Saint John to the Bridge over Hammond River ; thence by the present route to Hampton ; thence to Sussex, and through that Parish to Alexander M'Leod's ; thence by the new road round the Portage Hill to where it joins the old road near Leake's

farm ; thence to the new bridge over the Petitcodiac River ; thence along the said River to the Bend ; thence through the Portage between Petitcodiac and Memramcook Rivers ; thence across Memramcook River by the Bridge to the Court House in Dorchester ; thence through the Portage to Sackville ; thence by the road leading over the Great Marsh, by the Truss Bridge and Au Lac Aboideau, to the Missequash, the boundary line of the Province, to join the Post Road of Nova Scotia.

From the Forks of the Road on the Great Marsh, near Saint John, to Frog Pond ; thence to Loch Lomond ; thence to the head of said Lake ; and thence to Vaughan's Creek in Quaco.

From Saint John to the Head of Belleisle, by the following line or route, that is to say : From Saint John by the present road towards Nova Scotia, to the forks of the road at the nine mile House ; thence by the present road to Gondolo Point ; thence crossing the River Kennebeccasis and following the road to the eastward of Bates' Mill Pond, and through the Middle Land Settlement and the new road by the Beaver Dam and shore of the Belleisle Bay, to the Bridge at the head of Belleisle, meeting there the Great Road from Fredericton to the Finger Board.

From near Hampton to the intersection of the old Post Road to Kingston, by the following line or route : Commencing at Charles Dixon's near Hampton, in the Parish of Norton ; thence by the route explored and laid out by the Commissioners John M. Raymond and Henry Jackson, to the intersection of the old Post Road to Kingston, near the farm of John Henderson, Esquire, at or about four miles distant from the Ferry.

From the Baptist Meeting House in the Parish of Upham in King's County, to the Church in Sussex Vale in the said County, via John Hagerty's Esquire.

From Dorchester to Chatham by the following line or route : Commencing at the angle of the line of the Great Road from Saint John to the Nova Scotia line, on the east end of the Memramcook River Bridge ; thence by the present line of road to the new Bridge across Richibucto River ; thence to the Bridge across M'Almon's Creek ; thence to the Bridge across Davidson's Creek ; thence through the Town of Richibucto ; thence by the Chapel at D'Aigle's Creek to the Bridge across the North West River ; thence to Napan ; and thence by the

road as at present travelled to the Town of Chatham ; thence crossing the Ferry to the Great Road leading to Bathurst.

From the Bend of the Petitcodiac River by the present line or route to Shediac.

From Harvey to Salisbury, by the following line or route, that is to say : Commencing at Isaac Derry's and extending thence by the present road to John Calhoun's ; thence to M'Latchey's Creek in Hillsborough ; thence by the road as now travelled through Coverdale ; and thence to the Great Road from Saint John to the Nova Scotia line.

From Isaac Derry's in the Parish of Harvey, in the County of Albert, to the Post Office ; thence to Point Wolfe River.

From the Great Road near Crooked Creek Bridge in Hopewell, County of Albert, through the Parish of Harvey, to the Parish of Upham in King's County ; thence by the Hammond River to the Bridge at South Stream on the said Hammond River ; and thence to the Great Road from Saint John to Saint Martins, near the head of the large Loch Lomond in the County of Saint John.

From the Post Road at Cole's Island to Cape Tormentine, by the following line or route : Commencing at the Great Post Road at Cole's Island ; thence passing through Cole's Island along the present road to the old Post Road ; thence along the same to Hewson's ; thence through Jolicure to Bay de Verte ; thence by the road through the Emigrant Settlement to Cape Tormentine.

From Bathurst to Miramichi, via Pokemouche, by the following line or route, that is to say : Commencing at the Big Nepisiquit River, Bathurst ; and thence through the Settlement in the Parish of New Bandon ; thence through Grand Aunce to Waterloo Corner ; thence across the North West Branch of Caraquet River to End's Bridge, so called ; thence across the South West Branch of Caraquet River ; thence through the Settlement of Caraquet ; thence by the Lower or Blackhall Portage to Pokemouche ; thence to Tracadie ; thence to Tabusintac River ; and thence by the present line to Dixon's Ferry.

From Gagetown to the Nerepis Road, by the following line or route, that is to say : From the Court House in Gagetown along the present highway leading to Dingee's Mill, until it

meets the road leading from Gagetown to the Nerepis Great Road ; thence through the Summer Hill and Coote Hill Settlements until it meets the aforesaid Nerepis Road.

From Connick's at Waweig in the County of Charlotte, to the Lower Bridge over the River Saint Croix, by the following line or route, that is to say : From the Bridge over the Waweig round the head of Oak Point Bay ; and thence through the Town of Saint Stephen to the Lower Bridge over the River Saint Croix.

From Oak Bay in the County of Charlotte, to Eel River in the County of Carleton, by the following line or route, that is to say : Commencing at the head of Oak Bay in the Parish of Saint David, County of Charlotte ; thence running through the Tower Hill Settlement to the Bridge over the western branch of the River Digdeguash ; thence by the present line to the Bridge over the Little Digdeguash ; thence by the said line to the Howard Settlement in the Parish of Dumfries, in the County of York ; and thence by the line marked out under the direction of Messieurs Rainsford and Brown, until it strikes the Great Road from Fredericton to Woodstock near the Bridge at the mouth of Eel River.

From Roix's Farm on the Great Road from Saint John to Saint Andrews, to the Glenelg Bridge on Digdeguash River ; thence crossing the Great Road from Fredericton to Saint Andrews, until it intersects the Great Road from Waweig to Saint Stephen.

From the Lower Trout Brook Bridge, on the Great Road between Saint Andrews and Fredericton, by the Second Falls of the River Magaguadavic, on the western side of the said River, to the Town of Magaguadavic.

From the Dead Water Brook Bridge, on the Great Road from Fredericton to Saint Andrews, and thence to Saint Stephen, by the way of Smith's and Moore's Mill, and Upton's Farm, to the public landing.

From Woodstock to Houlton, by the following line or route, that is to say : From the Great Road leading to the Canada Line at Woodstock Corner ; thence through the Richmond Settlement to the American Line.

From the Great Road running from Woodstock to the Grand Falls, at or near John Boyer's, in the Parish of Simonds, County of Carleton, to the American line on the Big Presqu'ile.

From the lower landing at the Grand Falls, on the west side of the River Saint John, in the Parish of Grand Falls, in the County of Victoria, leading to the American Boundary, including the Ferry landing at the Grand Falls.

From Pickard's Store, near the mouth of the Tobique, known by the name of the Arestook Road, in the Parish of Andover, in the County of Victoria, leading through a back Settlement to the Boundary line between this Province and the State of Maine.

2. The said Great Roads and all others hereafter established, shall be at least four rods wide, and shall be worked out such width as the Supervisors in their respective districts shall deem necessary; provided that where any of the said Great Roads have not already been laid out of the width of four rods, the Supervisor, before widening the same over improved lands, shall obtain the consent of the owner, or agree to pay the value in the manner provided under the thirteenth and fourteenth Sections.

3. The Governor in Council shall appoint fit and proper persons to be Supervisors of Great Roads, or of parts thereof, not exceeding in the whole one hundred and fifty miles to any one Supervisor.

4. The Supervisors shall be appointed for the space of one year from the first of April in each year, and the appointments shall be made annually in the month of March.

5. Any Supervisor neglecting to render to the Secretary of the Province accounts under oath, and duly vouched, of all the moneys received by him from the Treasury in the year preceding the commencement of the annual Session of the Legislature, at an early period of such annual Session, or who shall have drawn moneys from the Treasury contrary to the rules made by the Governor in Council for the government of Supervisors, shall be displaced by the Governor in Council, and another appointed in his stead.

6. Every Supervisor shall give a Bond to the Queen with two good sureties, to be approved of by the Governor in Council, in double the amount such Supervisor may have to expend, conditioned for the faithful performance of the duties required of him, and for accounting for all public moneys entrusted to him.

7. The Supervisors, except in cases hereinafter mentioned, shall have the sole ordering of the repairs and alterations which may be necessary for completing the said roads within their respective limits or districts, and keeping them at all times in the best possible state of repair ; and for the purpose of making any alteration they may deem necessary, they may enter upon the lands of any proprietor through which it may be thought desirable to make such alteration, in order to make the necessary exploration and survey preparatory thereto, doing no unnecessary damage ; but nothing in this Chapter shall deprive the local Commissioners of Highways in their respective Parishes of the power of directing the application of statute labour of the said Parishes, either upon the Great Roads or other roads within the same, as they may deem right, but they shall in no case have the power of altering any Great Road, and are hereby respectively required in all cases where they deem it necessary to expend the statute labour or any part thereof on any of the Great Roads of this Province, to adhere to the lines already laid out and established by law, or that may be laid out in pursuance of any law now in force or that may hereafter be in force for that purpose.

8. Each Supervisor shall in the spring of the year when the ground is free from snow and ice, lay off and mark out such allotments as may conveniently be contracted for, which shall be let by auction to the lowest bidder, and they shall put up a sufficient number of notices not less than ten days previously to such sale in three or more of the most public places where the work is to be done, which notices shall specify and describe the work so to be performed, and also the place, day, and hour the same will be let at auction ; they shall attend personally at the time and place so appointed, and there let out to the lowest bidder the said allotments, and at the same time enter into written contracts, with sufficient sureties for the faithful performance of the work in the time and manner set forth in such contracts ; when it cannot conveniently be let by auction they shall agree with fit and proper persons to perform the same by days labour, provided that the sum expended by days work shall in no case exceed twenty per cent. of the amount to be expended on the said road.

9. The Supervisors shall cause all turnpiking, ploughing,

and throwing up of the said roads, to be performed previous to the first day of October in each year, and shall not permit any contractor or day labourer to perform such work on the roads under his charge after that date.

10. All contracts and wages of labourers hired by the day shall be paid by the Supervisors in money, and they shall keep an account of the expenditures of all sums of money received and paid by them respectively for the Great Roads, and shall produce vouchers for the payment, and render an account thereof on oath, to be transmitted to the Secretary of the Province for the examination of the Assembly.

11. All fences, timber, wood, stones, boards, plank, and rubbish of any kind, which shall be found to remain upon any part of the said Great Roads after six days previous public notice by the respective Supervisors to remove the same, shall be forfeited; and they shall, without any suit or process at law, cause all articles so found to be seized and disposed of in such manner as they think proper, and if sold, the proceeds shall be applied by them for the repairs and improvements of such roads.

12. Whenever it may be necessary for the Supervisors to go out of the said roads to procure materials for the repairs of the same, and when from the absence or obstinacy of the owner or possessor of the soil no agreement can be made with him, they may enter with workmen, carts, carriages, and teams, upon any uncultivated lands, and therefrom dig and carry away for the repairs of the said road, stone or gravel, and also cut down and carry away trees and bushes for logs, poles, and brushwork, to repair the said road, and the damage done thereby shall be appraised and ascertained by the judgment of three indifferent freeholders to be nominated by a Justice for that purpose, and the sum so ascertained shall be paid or tendered by the Supervisors respectively to the owner or possessor of the soil, if demanded within six months after such appraisement.

13. The Supervisors shall not make any alteration in any part of the Great Roads within their respective districts through any improved lands without the consent of the owner thereof, or agreeing with or paying to him the value of the said improved lands so to be laid out, with such damages as he may sustain;

and in case they cannot agree, then the true value to be set and appraised by five disinterested freeholders to be nominated and appointed by one Justice, on the oath of such freeholders; and the amount of such value and damages, with the incidental expenses, shall be defrayed by the Supervisors of the respective districts out of the moneys to be granted for the use of the said Great Roads.

14. The proprietors in the possession, either by themselves or by tenants, of any lands through which it may be necessary to lay out a public road, shall be deemed to be the owners of such lands, to whom the value thereof and the damages sustained are to be paid, although such lands may be under an incumbrance; and the freeholders appointed to appraise such value and damages, shall also return in their verdict who are owners to whom such value and damages are to be paid; and upon payment to the party entitled under the verdict, or upon tender and refusal thereof, the Supervisor shall be fully authorized to lay out such public road through such lands; and in case any such alteration lies on the border of two adjacent Counties so as to extend into both, or to render it doubtful as to which of the two Counties the said alteration may be situated in, the Justice and the said freeholders may belong to either County, and the proceedings had by them shall be valid; and if any person who may by the provisions of this Chapter be found entitled to receive any money, and on tender thereof shall not accept, or apply for the same within six months after such tender, the Supervisor shall pay the same into the Province Treasury, to be disposed of by the Legislature, and the Treasurer or Deputy Treasurer to whom such payment shall be made, shall be accountable for the same, and shall give such Supervisor a receipt for the sum so paid, which shall be a sufficient discharge.

15. If any person shall alter, stop up, or encroach upon any of the Great Roads, he shall for each offence forfeit the sum of two pounds; which, when recovered, shall be paid to the Supervisor for the use of the Great Road within the district.

16. If any person shall wilfully hinder or interrupt any Supervisor in the lawful exercise of the duties incident to his office, he shall forfeit the sum of five pounds; when recovered, to be paid to the Supervisor of the district where such offence

shall be committed, for the use of the public roads within such district.

17. If any action shall be brought against any Supervisor for any thing done by him in the execution of his office, he may plead the general issue, and give the special matter in evidence.

18. No action shall be brought against any Supervisor for any official act until after one month's notice, and every action against him shall be confined to the matter stated therein; and he may at any time before action brought tender amends, and if not accepted he may pay such money into Court, and if the plaintiff shall not recover greater damages than the amount tendered, the defendant shall recover his costs of suit.

19. Each Supervisor shall enter in writing the alterations that may be made in any of the Great Roads under his superintendence, and make a return thereof to the Secretary of the Province, and also a duplicate to the Clerk of the Peace where the public road lies, to be by him entered in a book for that purpose.

20. Each Supervisor shall be allowed to retain for his services at the rate of ten per cent. out of the moneys granted for the use of the roads.

21. Nothing in this Chapter shall authorize the Supervisor on any Great Road to alter or widen the same beyond the width originally laid out, without first submitting such proposed alteration, with a plan thereof, and an estimate of the cost, to the Governor in Council for approval, if such estimate shall exceed the sum of fifty pounds.

CHAPTER 66.

OF HIGHWAYS.

Section.

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1. The Sessions are authorized, if they see fit, to divide each Parish into as many Districts as there are Commissioners, and to appoint a Commissioner with as many Surveyors to each District as they think necessary. The Commissioners and Surveyors to enforce and superintend the performance of the statute labour for such District only, and to make due return thereof.

2. The Commissioners shall lay out such public highways as they consider best adapted for public accommodation.

3. When any public highway shall in the opinion of such Commissioners require alteration, they shall give the inhabitants of the Parish one month's notice of the intended alteration, by posting up such notice in at least three of the most public places in such Parish. At the time and place specified, the Commissioners shall attend and proceed to make such alterations, unless the owner of the land over which the road may pass, or one third part of the owners or occupiers of land in such Parish, object.

4. Such objection being made, a Justice on the application of five freeholders of such Parish shall issue his warrant, directed to any Sheriff or Constable within the County, commanding him to summon twelve disinterested owners or occupiers of land in the said County, who shall be sworn to examine the said road ; the said Justice shall also subpoena such witnesses as either party may require ; any person served with such subpoena neglecting to obey the same shall incur a penalty not exceeding five pounds, to be paid to the Commissioners for the use of the roads ; the expenses of such witnesses shall be estimated by the jurors and paid as they may direct.

If the jury determine that the alteration shall be made, the Commissioners shall proceed to make the same accordingly ; should the road so altered extend upon any improved land, or occasion the removal of any buildings or fences, the damages in such cases shall be assessed by the said jury at the time aforesaid. If in any such alteration a new road be opened, and the old road or any part of it be shut up and revert to the owner of the land on which said new road may pass, the jury shall take into consideration the value of such old road, or any part thereof so shut up, in diminution of damages. Where roads are laid out, altered, or extended under any law relating to Highways, the Commissioners or Surveyors may enter upon and open all such roads, and remove therefrom any obstructions.

5. All roads not recorded, upon which public money has been expended, are hereby declared public roads or highways.

6. The damage to the owner arising from any public road to be laid out through his improved land, or from the removal of any obstructions, shall on his application be ascertained by a jury summoned as directed by the fourth Section of this Chapter. The Justice issuing the warrant shall preside at the inquest.

7. The Commissioners shall lay the assessment of damages by the jury before the Sessions, who shall order payment therefor in such proportions by such Parishes as they may deem just, and issue their warrant therefor, to be assessed and collected as County rates, and paid to the person entitled thereto.

8. Any such road intended for the convenience of a particular District, whether wholly in one Parish or between two or more Parishes, shall be reported by the Commissioners to the Sessions, specifying the bounds and limits thereof, and the names of the persons residing therein. If the Sessions adopt the report, they shall appoint two or more Assessors within such District, who shall assess the damages sustained in laying out such road, upon such residents, to be levied and collected as County rates.

9. The Commissioners, upon application for a private road, shall view the same, and upon the written consent of the owner of the land, may lay out the road ; if the owner object,

a jury shall be summoned as directed by the fourth Section of this Chapter, at the instance of the Commissioners or parties interested, which jury shall determine as to the necessity of the road ; and if necessary, and the parties disagree as to value and damages, they shall proceed to assess the same, and when assessed the amount shall be paid to the owner of the land through which the road passes. The expense of laying out such road shall be paid by the applicant, and no such road shall be laid out more than two rods wide against the consent of the owner.

10. Public roads shall not be more than six nor less than four rods wide, at the discretion of the Commissioner.

11. Each juror summoned as aforesaid shall be entitled to two shillings and six pence, and the officer summoning, ten shillings ; the whole sum necessary to meet such expenses shall be paid to the Commissioners by the applicant previous to the issuing the warrant. The Commissioners shall pay the officer and the jurors their fees on the return of the verdict in all cases connected with a public road; if the jury return an affirmative verdict, such expenses shall be included in the assessments provided in the seventh and eighth Sections of this Chapter, collected as therein directed, and paid to the person advancing the same.

12. On any alteration being made in any road pursuant to this Chapter, and the parts between the points of such alteration shall not be settled by the erection of dwelling houses thereon, or when the same shall not cut off any proprietor from the road so altered, the Commissioners shall direct that the said points between such alteration shall be stopped up and enclosed by the proprietor of the land between such points, after which the old road shall not be considered public. The Commissioner shall not so direct until he considers the new part equally as good and passable as the old road.

13. If the Commissioners think that any road is not required for the convenience of the inhabitants of the Parish through which the same passes, or the inhabitants of the adjacent Parish, they may, by the consent of the owner of the land through which it passes, shut up the same.

14. The Commissioners for each Parish shall designate in writing the marks, bounds, and lines of such roads as are laid

out, altered, or shut up, and within three months thereafter make return thereof to the Clerk of the Peace, who shall enter the same in a book to be kept for that purpose. Any Commissioner or Clerk of the Peace neglecting the duty required of him, shall pay for each neglect three pounds.

15. Whoever shall alter, encroach on, or obstruct any public road, shall for each offence forfeit forty shillings. Should the offender not be known, the Commissioner or Surveyor, if the incumbrance be saleable, shall, unless sooner claimed, after three days public notice sell the same; and apply the proceeds to repairing such road; if not saleable, they shall cause the same to be removed, and the person employed by them shall be allowed therefor, according to the time he is employed, a deduction of his statute labour.

16. All roads, streets, and bridges in each County shall be cleared, maintained, and repaired by the male inhabitants thereof being eighteen years of age and upwards (except Ministers of the Gospel, and licenced Schoolmasters employed as such, not having property liable to assessment, and Emigrants from Great Britain and Ireland arriving within the year the assessment is made) who shall work either in person or by sufficient substitutes in each year, with such implements as the Surveyor shall direct, the number of days (eight hours actual labour to each day) as follows, namely: all persons between eighteen and twenty one years of age, two days; persons of the age of twenty one and above, four days; and one day in addition thereto for every one hundred pounds of value of his real and personal estate, or one day for every twenty five pounds of his annual income; but no person shall be liable to perform more than sixty days labour in any one year. Two Justices, on the application on oath of any infirm and indigent person, may remit in whole or in part his statute labour.

17. The Commissioners in each Parish shall by the first day of May in each year make a list of the inhabitants of such Parish, and assess the number of days to be performed by them respectively, according to the best of their judgment, and shall advertise the same in the most public place of the said Parish, and shall furnish the Surveyors in their respective Districts with a list of the inhabitants of such District, and the number

of days work to be done by each, and shall within fifteen days direct the said Surveyors where the work shall be done, the Surveyors to direct the work. The Commissioners shall add to their lists the names of the persons that may come to reside in their respective Parishes after the said first day of May, except as before excepted, and assess the number of days work to be done by each, unless they produce a certificate of the performance of, or their liability to do statute labour in some other Parish.

18. The Commissioners of any Parish or District may receive from any person assessed to perform statute labour the sum of one shilling and three pence for each day's labour required in lieu of the labour, and the moneys so paid, as well as the forfeitures under this Chapter, shall be laid out by such Commissioners on the roads and bridges, between the first days of May and October in each year, first giving six days public notice by advertisement within the Parish or District of the time and place they intend to expend the same, and let out the work by public auction to the lowest bidder.

19. The Surveyors when directed by the Commissioners shall at the most suitable time between the first days of May and September in each year, summon the inhabitants, giving at least six days notice to each person liable to work, either by personal service, or leaving it at his house, or by publishing the same by notice in writing in three of the most public places in the District, which shall contain the names, the number of days work by each respectively, and the implements to be used by each; they shall expend the labour in making or improving the roads and bridges in the best manner, subject to the orders of the District Commissioners; and they may call on any person in their District having any wagon, cart, truck, plough, or harrow, oxen or horses, to furnish the same, with a competent driver, and shall allow him four days labour for one.

20. Every Surveyor, on oath, before the tenth day of September in each year, shall deliver to the Commissioners a return of the names of the persons in his District liable to perform statute labour, the number of days work performed by each, and the delinquency.

21. Every person when required by any Commissioner shall within twenty four hours give him a statement in writing of

all persons residing in his house, or in his employ, liable to perform statute labour, and any person neglecting to give such statement, or giving a false one, shall pay a sum not exceeding five pounds, to be recovered in the name of any one of the Commissioners of the Parish or District; when recovered, to be paid to the Commissioners, and applied in making and repairing the roads.

22. The Surveyor within six days after the neglect of any person duly notified to appear and labour, or pay the commutation money, or appearing and refusing to work to the satisfaction of the Surveyor, and being dismissed therefor, shall report the same to the Commissioner, who shall forthwith make complaint in his own name to a Justice against such delinquent, and he, on judgment obtained, shall for each day's neglect adjudge him to pay two shillings with costs of suit; the delinquent shall not suffer more than six days imprisonment in either case, and the proceedings shall be, before the Justice, as in civil suits.

23. Any person keeping any wagon, cart, truck, plough, harrow, two oxen, or two horses, when duly required to furnish the same, with a competent driver, neglecting to do so, a Surveyor shall forthwith make complaint to the Commissioner, who shall immediately proceed against him in the manner directed by the last preceding Section; the offender shall be adjudged to pay eight shillings for every day's neglect, or be liable to be imprisoned not exceeding six days.

24. In all actions for the recovery of the fines imposed by this Chapter, the delinquent may be held to bail on the oath of a Commissioner, the proceedings in such case shall be as in civil suits before Justices.

25. During the intervals between the performing of the statute labour the Commissioners may, as occasion requires, direct the Surveyors to summon so many of the inhabitants as may be necessary to remove all trees or windfalls out of the roads, and to repair all bridges and such parts of roads as may require it, and to furnish the materials therefor, and call upon persons keeping any vehicle or team to attend with the same; the work when performed to be deducted from the number of days each person may be obliged to work on the roads; any person not attending, or refusing to work, shall forfeit four

shillings for each days neglect or refusal, and eight shillings for neglecting to furnish the vehicle or team as aforesaid, to be recovered and applied as directed by the twenty second Section of this Chapter.

26. The Commissioners, after the first snow, and when the rivers and marshes are safe for the passing of cattle on the ice, shall direct the Surveyors to summon forthwith so many inhabitants as they shall think necessary to perform such work as the Surveyors shall direct, in cutting, carrying, and erecting bushes, and making ways. Any person not attending, or refusing to work as directed, shall forfeit four shillings for each days neglect, to be recovered and applied as aforesaid. The rivers and the several parts thereof when frozen as aforesaid, shall be considered as part of the Town or Parish to which they are respectively opposite. And the Commissioners for the Town or Parish opposite to each other, shall determine the distance upon the said river which is to be worked upon by the respective Parishes.

27. The said way shall be marked as directed by the Commissioners, with evergreen bushes five feet high, erected lengthways on the path, not more than four rods from each other, and shall be replaced in the same manner when necessary. When the road is on the bank the path shall be marked on the river; and every person keeping a team, on being summoned by the Surveyor, shall forthwith send such team with a competent driver to work as directed, and neglecting to do so shall forfeit eight shillings, to be recovered and applied for the purposes of this Section. The time every person may work pursuant to this Section, or the sum he shall forfeit, shall be allowed as so much of his statute labour.

28. Any person who shall wilfully cut, take down, or destroy any bushes so erected, shall pay twenty shillings, to be applied one half for the use of the Parish where the offence is committed, the other to the informer; the offender shall not be imprisoned for want of goods whereon to levy more than six days.

29. The Surveyors in their Districts, by order of the Commissioner, during the winter season when necessary, shall summon so many of the inhabitants liable to do statute labour as they may think fit, to attend with shovels, to shovel snow

and assist to break the roads, and so many of such inhabitants having horses or teams, as they think necessary to attend on the roads and break the same in the snow with such horses or teams, not exceeding four days in each winter, nor more than three miles from their own house, such work not to be deducted from their statute labour. Any person not attending, or refusing to work, shall pay two shillings and six pence for each day's neglect, and five shillings per day for not attending or refusing to work with his horse and team as aforesaid, to be recovered as prescribed by the twenty second Section, and applied by the Commissioner to breaking winter roads.

30. Every horse sled, or sleigh drawn on any road, shall have fastened to it, or the harness thereof, two or more bells, so as to be distinctly heard, under the penalty of five shillings for each offence, to be recovered from the owner or driver by any person who shall sue for the same, and to be paid and applied as directed by the twenty first Section.

31. The Road Commissioners in the Parishes of Maugerville and Sheffield in Sunbury, and of Canning, Cambridge, and Gagetown in Queen's, may apply such parts of the statute labour of the inhabitants or proprietors of land in such Parishes respectively, as they deem necessary, to secure and defend the banks of the River Saint John therein, and to procure materials necessary for that purpose.

32. That part of the said statute labour so employed where the public highway runs, may be performed at the times in each year when most practicable, under the direction of the Commissioners. The Commissioners and Surveyors shall make returns thereof in time to be submitted to the June Sessions of the Counties respectively.

33. The Commissioners on or before the fifteenth day of December in each year, shall deliver to the Clerk of the Peace of their respective Counties, returns, with the vouchers, to be by the said Clerks filed in their office; which returns shall be according to the form hereafter set forth. If any balances remain in the hands of any Commissioner, he shall pay the same to the County Treasurer, to be disposed of by the Sessions for the benefit of the roads and bridges where such money was collected.

Form of Return.

The undersigned Commissioners (or Commissioner) of the Parish of (or District of the Parish of as the case may be) certify that all persons assessed to work in the said Parish (or District), have either worked, paid the commutation or fines, or been prosecuted as the law directs, except the persons excused.

[Here insert an account of the receipts and expenditures shewing the balance of money (if any) in hand, thus]—

Statement of moneys expended,	Specify the items.
Statement of moneys received,	
Names of persons prosecuted:	
From whom fines not received.	
List of persons excused.	

Cause of such excuse. A. B.

34. All Commissioners shall be exempt from the performance of statute labour, and they shall pay the Surveyors out of the commutation money and fines five shillings per day for every day above eight.

35. Every prosecution for any of the forfeitures mentioned in this Chapter shall be commenced within six months after the offence.

36. Any person thinking himself overrated or assessed too high by the Commissioners may, after notice, appeal to the next Sessions. If the appeal be sustained they may relieve him by deducting the surplus from the amount of statute labour to be performed by him the next year.

37. No appeal shall be allowed unless the appellant within one month after notice of assessment or summons to work leave a memorandum with the Clerk of the Peace, or with the Commissioner, to be transmitted to him; which memorandum shall be accompanied with an affidavit to the following effect:—

County of , to wit.

' I A. B. of in the said County, do make oath that the whole of the property real and personal held by me, or any person in trust for me, does not exceed , and that my whole yearly income does not exceed .

A. B.

Sworn at , this day of , A. D. 185 .
C. D. J. Peace.

38. Nothing contained in this Chapter shall interfere with the rights of any City, Town, or Parish, for which special or local laws relating to statute labour are now in force.

Albert

TITLE X.

OF SEWERS.

CHAPTER 67.

OF THE COMMISSIONERS.

Section.

1. Appointment of Commissioners.
2. Powers conferred by the Commission.
3. Appointment of Clerk and Collectors, their duties; allowance to Collectors.
4. Commissioners to be sworn, to determine allowance to Collectors, and call them to account.
5. Commissioners' pay.
6. Duty of Commissioners as to letting out land, and authorizing sale thereof.
7. What notice to be given by Commissioners when about to erect Dykes, &c.
8. Duty of Commissioners in case of sudden breach.
9. Valuation of damages.
10. What consent necessary to enable Commissioners to dyke or drain.
11. Commissioners' duty as to Assessment, Account, and Distraint.
12. Special Commissioners, for what, by whom, and how appointed; their powers.

Section.

13. Commissioners for Westmorland and Albert.
14. Their jurisdiction and powers.
15. District failing to elect, who shall be the Commissioners.
16. By whom Rate shall be made, majority, who may superintend work and employ workmen.
17. Commissioners to be sworn, when and by whom; consequence of neglect.
18. Commissioners to render Accounts, &c., to whom, and when.
19. Commissioners for Parish of Sackville.
20. Their term of office, powers, &c.
21. Their powers to make Bye Roads, under what restrictions; their remuneration.
22. Vacancy occurring, how supplied.
23. Commissioners for Queen's County, how appointed; their powers.
24. To be sworn, when, and by whom.

1. On the application of any proprietor of any marsh, low meadow, or other unreclaimed lands, the Governor in Council shall appoint Commissioners.

2. The Commission shall authorize them to meet together as occasion may require, to devise means and methods for building, erecting, or repairing aboideaux, dykes, and wears, for preventing inundation, and for draining or drowning marshes, swamps, and other unreclaimed lands, either dyked or undyked, to employ workmen for reasonable wages, to tax and assess the owners of such lands for defraying the expenses thereof, having regard to the quantity and quality of land of each person, and the benefits to be received, as equally as they can, and to appoint all necessary officers to act under them, for the purposes of this Title.

3. The Commissioners shall appoint a Clerk, not being a

Commissioner, who shall keep all records, entries, notices, and other documents ; and they shall also appoint and swear a Collector, who shall collect the assessments and pay them to the person appointed by the Commissioners. The said Collector shall have power to distrain in any part of his County on the property of all persons neglecting to pay, as in other cases of distress ; the said Collector may levy for his services, above such assessment, a sum not exceeding seven and a half per cent. on the amount assessed.

4. The Commissioners shall be sworn to the faithful discharge of their duties, shall determine the amount of percentage to the Collector, and shall call him before them to account for his trusts in the premises.

5. Each Commissioner shall receive for superintending the dyking or draining of any such lands at the rate of ten shillings for each days attendance, and when otherwise employed as such Commissioner at the rate of five shillings, to be paid out of the assessment.

6. The Commissioners shall let out the lands of delinquent proprietors, by advertisement in the Royal Gazette for three months, and by notice posted up in the office of the Registrar of Wills and Deeds ; and when necessary, by warrant under seal, direct the Sheriff to sell at public auction so much of said land as will be sufficient to pay the proportion due, and charges of sale, who shall execute a sufficient deed to the purchaser, his heirs and assigns.

7. The Commissioners in all cases of erecting new dykes or aboideaux, or raising or repairing the same, or draining marsh or low lands, shall give at least six days notice thereof by advertising the same in three public places within their jurisdiction.

8. The Commissioners, in the event of a sudden breach in any dyke, or where the same is likely to occur from any cause, shall give immediate notice to the owner or proprietor of the land within such dyke, to attend at such dyke with proper tools or teams to labour as required by the Commissioner.

9. The Commissioners shall cause a just valuation, by five disinterested freeholders, of the loss sustained by any land proprietor in consequence of dyking.

10. The Commissioners shall have no power to dyke in any

body of marsh, low land, or meadow, unless upon the application or consent of the proprietors of at least one half of the quantity thereof, and shall have no power to drain any body of the same, either dyked or not, except on the application of at least one half of such proprietors to be benefited thereby, unless the proprietors of the District have elected Commissioners under this Title, which shall be deemed tantamount to such consent.

11. The Commissioners, on making any bill of assessment, shall state the expenditures and work done in dyking and draining any such land under their direction, and shall leave the same with the Clerk for inspection, and shall give notice thereof to each proprietor or agent residing within their jurisdiction, at least thirty days before issuing any warrant to distrain. They shall, when the proprietors do not reside within such jurisdiction, cause a schedule, shewing the amount due from each non-resident proprietor, signed by the Clerk, to be posted up, at least thirty days before advertising the land for letting, in three public places in the Parish, and at the County Court House.

12. The Governor in Council, on the application of any proprietor of any such lands which may lie in two or more Parishes, and in the reclaiming, draining, or enclosing of which two or more Parishes may be interested, shall appoint special Commissioners to superintend such work, who shall have all the powers, be subject to the same duties, receive the same compensation, and be liable to the same penalties, as the Commissioners appointed by virtue of the first Section of this Chapter, and the first mentioned Commissioners shall, so far as relates to such work, supersede the powers and control of the last mentioned Commissioners.

13. The Commissioners of Sewers in the Counties of Westmorland and Albert (except the Parish of Sackville) shall be elected by the proprietors of marsh lands in the said Counties, as provided in Chapter 68 of this Title.

14. The Commissioners when elected and sworn shall be "The Commissioners of Sewers" for the whole of the Parish or division within which their districts lie, and shall perform all the duties, have all the powers and privileges, and be liable to the same penalties, as the Commissioners appointed by the Governor in Council.

15. If the proprietors of any such district fail to elect a Commissioner, the remaining Commissioners shall act, and shall be "The Commissioners of Sewers" for such Parish or district for the period for which they are elected.

16. No rate shall be made without the consent of a majority of the Commissioners. Not less than two shall be a majority for making any rate, but one Commissioner so elected may superintend work in progress, and employ workmen for that purpose.

17. The Commissioners elected shall be sworn to the faithful performance of their duties as such, by the presiding officer at the election, or by any Justice within one week after his election, or he shall be deemed to have refused the office.

18. The Commissioners at the expiration of their term, and after the election of their successors, shall deliver up to them all books, accounts, and documents relating to their proceedings while in office; and all rates imposed by them, not collected, shall be valid, and may be enforced by their successors.

19. The Commissioners of Sewers for the Parish of Sackville shall be chosen for the several Districts in the said Parish, as provided for by Chapter 68 of this Title, and shall be sworn as aforesaid.

20. The Commissioners of Sackville, when sworn, shall continue in office three years, shall make similar appointments, have all the powers, rights, and privileges, perform the same duties, and be liable to the same penalties, as the Commissioners appointed by the Governor in Council under this Chapter.

21. The Commissioners of Sackville may make and repair the bye roads leading through or in the Districts, and assess the marshes for the expenses thereof, first advertising the same for ten days in three or more of the most public places in the District; but if the proprietors of a majority of acres in the District in which such road is, object in writing to the Commissioners, they shall refrain from proceeding for one year, when they shall advertise again before proceeding, and so on as often as the case shall occur. They shall keep separate accounts of the labour performed in each District during their term, and every half year of said term shall settle up and arrange as far as possible all accounts arising during such term,

{ and deliver the same with all vouchers to their successors.
 They shall receive out of the assessment made by them a reasonable compensation not exceeding seven shillings and six pence for each day they may be employed.

22. When a vacancy occurs by the refusal, removal, or death of any Commissioner, it shall be filled up in the manner prescribed in Chapter 68 of this Title.

23. The General Sessions for Queen's County, when necessary, shall appoint fit persons to be Commissioners of Sewers for any Parish, District, or place in said County, who shall carry into effect the provisions of this Title in reference to marshes, low lands, and islands therein.

24. The Commissioners for Queen's County shall be sworn to the faithful discharge of their duty, either before the Sessions, or within fourteen days after their appointment by a Justice, who shall make return thereof forthwith to the Clerk of the Peace.

CHAPTER 68.

OF THE DIVISION OF MARSH LANDS, AND THE ELECTION OF COMMISSIONERS FOR WESTMORLAND AND ALBERT, EXCEPTING THE PARISH OF SACKVILLE.

Section.

1. The Sessions to divide lands into Districts, when; how described.
2. They may make divisions in each Parish, and subdivide; how distinguished.
3. They shall determine time and place for election. Further powers as to divisions. On failure of election, may appoint another day.
4. Proprietors to elect Commissioners, their power and continuance in office. Time of holding general elections.
5. Jurisdiction of Commissioners, and powers.
6. The conducting the election.
7. Who are entitled to vote. Oaths to be taken by voters.

Section.

8. The duty of the presiding officer at and after the election; when election void.
9. Presiding officer to certify. Effect of.
10. Oath of office to be written in or attached to Poll Book, what, and with whom to be filed.
11. Vacancy, how supplied, and term of office.
12. How Proprietors may withdraw from jurisdiction of Commissioners. How restored.
13. Copy of Certificate, when prima facie evidence, and for what.
14. Commissioners guilty of neglect, &c., liable to damages; how recovered, and when.

1. When the proprietors of at least two hundred acres of marsh land in the aggregate, in any Parish in Westmorland or Albert, (except Sackville) desire to choose Commissioners, and petition the General Sessions within which such marsh is situate for that purpose, such Sessions shall by order divide such parts and portions of the marsh land in said Parishes as they consider necessary into Districts, distinguishing each

District by a number, describing it by metes and bounds, with an estimate of the supposed number of acres in each.

2. The Sessions may constitute two or more divisions in such Parish, describing each division by metes and bounds, distinguishing the same by a letter, and sub-divide such division into districts as for a Parish.

3. The Sessions shall determine the time and place for the meeting of proprietors of marsh for a general election of Commissioners of Sewers as provided for by this Title, and may alter or increase the number of divisions or districts, for the purposes of this Title, and may on the failure of the proprietors of any division or district to elect on the day appointed, at the request of any proprietor appoint another day for such election in manner aforesaid.

4. At the time and place fixed by the Sessions the proprietors of any district in any Parish or division then assembled may elect one Commissioner. The Commissioners elected by each district shall be the Commissioners of Sewers for the whole Parish or division for the period of three years, at the expiration thereof a general election shall in like manner be held at the same period of the year, at the same place, (unless the day fall on Sunday, when it shall be held on the Monday following) for the same purpose ; and so on at the expiration of every three years.

5. The persons so elected, after being sworn, shall be "The Commissioners of Sewers" for the whole Parish or division in which the districts lie, with all the powers and privileges, and subject to all the duties and penalties imposed by this Title.

6. At all meetings for the election of Commissioners the senior Justice of the County present shall preside ; if he refuse, or there be no Justice present, a majority of the proprietors present shall choose a person to preside, who shall forthwith appoint an impartial Poll Clerk, and administer to him an oath truly to enter all votes given at such election. The Poll Clerk shall, under the direction of the presiding officer, truly enter the votes given for each district by the proprietors thereof, in the poll book, in the manner prescribed by the Form (D) in the Schedule of this Title, until all the proprietors present have an opportunity to vote, or until six o'clock of the evening of said day, when the poll shall be closed.

7. Every proprietor of marsh land, male or female, not less than sixteen years of age, may vote at such election, and each proprietor shall have as many votes as he has acres of marsh in the district, exclusive of fractional parts. Should the number of votes be disputed by any other proprietor, the voter shall take the Oath (B) in the Schedule to this Title ; but no proprietor shall vote upon any bog or marsh unless it yield the annual value of two shillings and six pence per acre, or unless at the time of the election it has been assessed to that amount. Should the number of such votes be disputed by another proprietor, the person claiming to vote shall, before such votes are entered, take the Oath (C) in the Schedule to this Title ; which oaths the presiding officer shall administer.

8. The presiding officer at the close of the poll shall forthwith open the poll book, ascertain the candidates elect, or in case of contest which candidate for any district has the majority of votes. Should two or more candidates have an equal number of votes, he shall then openly by lot determine which of such candidates shall be the Commissioner ; but if at such election it shall appear on counting the votes that a majority of acres in any such district has not been voted on, the election shall be void.

9. The presiding officer having ascertained the candidates elect as aforesaid, shall certify the same on the poll book, and the persons so certified shall be the Commissioners for the Parish or division.

10. The oath of office, if administered by the presiding officer, shall be in writing in the poll book, but if by a Justice shall be in writing, and filed with the presiding officer, who shall attach the same to the poll book ; which book, certificate, and oath, shall by him be forthwith transmitted to the Clerk of the Peace.

11. Should the person elect die, or refuse to act, the proprietors of the district may apply to the Town Clerk of the Parish, who shall by advertisement in three or more of the most public places in the district, call a public meeting of the proprietors of the district to elect a Commissioner. The election shall be conducted in all respects as previously provided in this Chapter, but the Commissioner elected shall hold office only until the next general election.

12. When the majority of the proprietors of acres in any District desire to withdraw the same from the jurisdiction of the Commissioners, they shall make application in writing to the Sessions, who may allow the same to take effect at such time, not exceeding six nor less than three months, as they may direct ; after which time the jurisdiction of the Commissioners over said district shall cease, but all rates made before the date of such order shall be enforced ; and such jurisdiction may be restored by the written consent of the proprietors of a majority of acres therein, or by their voting at any election of Commissioners of Sewers.

13. A copy of a certificate of return of Commissioners elected under any Chapter of this Title, filed in the office of the Clerk of the Peace, certified under the hand and seal of his office, shall be prima facie evidence of the regularity and legality of all proceedings up to and at the election of such Commissioners.

14. Any Commissioner elected under any Chapter of this Title guilty of wilful neglect or gross negligence, shall be personally liable to the party injured for all damages in consequence of such neglect or negligence, in an action on the case, with costs, in any Court of Record.

CHAPTER 69.

OF THE COMMISSIONERS FOR THE PARISH OF SACKVILLE.

Section.

1. Districts in Sackville.
2. Number of Commissioners in each District.
3. Day and place for general elections.
4. Who shall preside.
5. Presiding Officer's powers and duties, and restriction as to proprietors' voting.
6. Oath of voters, when to be taken.

Section.

7. Duties of Presiding Officer and Poll Clerk; when election of a Commissioner void.
8. Powers and privileges of Commissioners.
9. Vacancy, how supplied.
10. Lands undivided, proprietors wishing a Commissioner, how obtained. His term of office.
11. Collectors, by whom appointed, their powers and pay.

1. The marsh land in the Parish of Sackville shall consist of six districts, classed as follows :—Ram Pasture Marsh to be district number one ; West Cole's Island Marsh, and east Cole's Island or Sunken Island Marsh, number two ; the new and old West Marshes, number three ; Bear Island Marsh, Middle Village Marsh, and King's Marsh, number four ; Spectacle Island Marsh, and Dixon Island Marsh, number five ;

and the Great Marsh, with the bogs and low lands lying to the northward and westward thereof, number six.

2. Districts number one, two, three, four, and five, shall each choose one Commissioner, and district number six two Commissioners, in the manner provided in this Chapter ; the persons elected shall be the Commissioners of Sewers for the said districts respectively.

3. On the third Tuesday in April in every third year from the third Tuesday in April one thousand eight hundred and forty nine, between eight and nine o'clock in the forenoon, the proprietors of the said districts shall meet at or in front of the Temperance Hall in Sackville, to choose the said Commissioners.

4. The senior Justice of the Parish shall preside at the meeting ; should he refuse, or be absent, then the senior Justice of the Parish present ; should he refuse, or there be no Justice present, the majority of the proprietors present shall choose a person to preside at the meeting.

5. The presiding officer shall make the same appointments, discharge the same duties, be invested with the same powers, and the election shall be conducted in the same manner in all respects as provided in Chapter 68 of this Title ; but no proprietor of marsh land in any one district shall give any vote upon the same for a Commissioner to be elected for another district.

6. Any person claiming to vote in either of the districts from one to five, both inclusive, shall if required take the Oath (B) in the Schedule ; and any person claiming to vote in district number six shall if required take the Oath (C) in the Schedule.

7. The presiding officer, and the Poll Clerk (after taking the oath A) shall perform the same duties in all respects, at and after the election respectively, as the presiding officer and Poll Clerk are required to perform by Chapter 68 of this Title. And any candidate elect negleoting to be sworn in within one week after his election, shall be deemed to have refused to act, and his election shall be void.

8. The Commissioners elected under this Chapter shall possess all the powers and privileges, perform similar duties, and be subject to the same penalties, as the Commissioners elected by virtue of this Title.

9. Any vacancy occurring by refusal to act, removal, or death, shall be filled up as provided by this Title.

10. If the proprietors of any marsh land in Sackville, containing not less than two hundred acres, not included in the division named in Section 1 of this Chapter, desire the superintendance of a Commissioner, they shall make application in writing to the Town Clerk of the Parish, to call a public meeting of the proprietors to elect a Commissioner. The said Clerk shall give ten days notice of such meeting to be held in the Parish, by advertising the same in six or more of the most public places in the Parish. The election shall be conducted in all respects as provided for in this and the preceding Chapter. The Commissioners elected and sworn in shall continue in office until the then next general election of Commissioners; but the election shall be void if the proprietors of a majority of the number of acres in such body of marsh do not vote at such election.

11. The Collectors appointed by Commissioners elected under this Chapter shall have the same powers, receive the same remuneration, and be under the same regulations as the Collectors appointed by the Commissioners under this Title.

CHAPTER 70.

OF THE UNDIVIDED DISTRICTS IN SACKVILLE.

Section.	Section.
1. Proprietors, when and with what to work.	4. Annexing any body of marsh to a district, how, when, and by whom done.
2. Oxen, when required, who shall attend with them.	5. Jurisdiction of Commissioners.
3. Commissioners to tax all persons benefited by Dykes or Aboideaux; how and when taxed, collected, and paid.	6. How discharged from the control of Commissioners. Rates, when to be levied.

1. Upon the notice by the Commissioners, pursuant to Section 7 of Chapter 67 of this Title being given, the owner or occupier of such marsh or low land shall attend by himself or sufficient labourers with proper tools, to work at such time and place as the said Commissioners shall direct, agreeably to the rule made for that purpose, and according to the proportion of land belonging to each owner or proprietor.

2. When it may be necessary to employ oxen and carts, each owner or possessor of such lands as have them, shall

attend with the same for such work, according to the discretion of the Commissioners.

3. When land shall be reclaimed and enclosed by dykes or aboideaux erected without other dykes or aboideaux which shall benefit the lands first dyked, by more effectually securing it, the Commissioners shall tax and assess all persons benefited thereby, according to their discretion, but not above the real value of such reclaimed or enclosed land ; the same to be assessed, collected, paid, and accounted for as other assessments under this Title.

4. Should the proprietors of the majority of acres of any body of marsh in the Parish of Sackville desire to be annexed to any district or body of marsh having elected Commissioners, such Commissioners, by the consent of the proprietors of a majority of acres in both the bodies of marsh, shall declare the first body of marsh annexed to the second body or district.

5. Upon such declaration the Commissioners shall have the same jurisdiction over the said first body of marsh as if it had originally been part of such district.

6. If the proprietors of any body of marsh desire to be discharged from the control of said Commissioners, they, upon obtaining the like consent as specified in Section 4 of this Chapter, shall declare such district withdrawn from their jurisdiction, and thereupon their jurisdiction shall cease ; but any rate made before such declaration shall be levied the same as if there had been no withdrawal.

CHAPTER 71.

OF PENALTIES.

Section.

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|--|---|
| 1. Owner or occupier refusing to work, | 3. Penalties, to whom paid, and how ap- |
| penalty. | propriated. |
| 2. Neglecting to attend with tools or teams, | 4. Penalties to be besides the tax. |
| penalty. | |

Section.

1. Any owner or occupier neglecting to attend on notice of the Commissioners, and perform the work directed by them, as prescribed by Section 7 of Chapter 67, and Sections 1 and 2 of Chapter 70 of this Title, shall forfeit and pay for each day's neglect the sum of five shillings, and so in proportion for oxen and carts.

2. Any owner or occupier of land neglecting to comply with the notice and direction of the Commissioners, as prescribed by Section 7 of Chapter 67 of this Title, shall forfeit and pay the sum of ten shillings for each day's neglect, and so in proportion for oxen and carts.

3. The penalties in Sections 1 and 2 in this Chapter, when recovered, shall be paid to the Commissioners, who shall sue for and appropriate the same for the repairs of such dykes.

4. All such penalties shall be besides the tax or assessment of the parties fined.

CHAPTER 72.

OF COMMON SEWERS IN THE CITY OF SAINT JOHN.

Section.	Section.
1. Common Council, power to lay down Sewers, &c., and to assess.	6. Who shall be assessed on certain leased lands.
2. Assessment, when made.	7. Power of occupier to use Sewer or Drain, under what restrictions.
3. Assessment, in what proportion.	8. Privies not to be drained into common or public Sewers.
4. Assessment and charges, how collected.	9. Size and dimensions of Sewers, &c. by whom determined.
5. Assessment, to whom paid, and how applied.	Schedule.

1. The Common Council of the City of Saint John, when they deem it expedient, may lay down any common sewer or public drain in any street of the said City, and may direct an assessment therefor.

2. The assessment shall be made upon the owners in fee of the several lots or parts of lots, situate on both sides of the street, and in front or opposite to which the sewer or drain may pass, and the expense of entering the same from both sides of the street shall be taken into consideration in making the assessment.

3. The assessment shall be made in proportion to the frontage of land owned by the respective persons to be assessed.

4. The assessment, with the charges of assessing and collecting, shall be levied, collected, and paid, the same as County rates.

5. When the assessment is collected, it shall be paid into the hands of the Chamberlain of the City, to be applied by the orders of the Common Council for the purposes of this Chapter.

6. When any lot or part of lot is held under lease for a term of years, with a covenant for renewal of such term, the rate or assessment shall be made upon the person having the legal estate and interest in the said term, and not upon the owner in fee.

7. The occupier of any such lot, or part of lot, assessed for the purpose aforesaid, may at all times use the said sewer or drain, and lead a separate sewer or drain into the same from his own premises without paying for such privilege, subject to such bye laws, regulations, and orders, relating to the management and use of the said common and public as well as separate sewers or drains, as the Common Council may ordain and make.

8. No sewer or drain leading from any privy shall be led into a common or public sewer.

9. All drains and sewers to be laid down under this Chapter, shall be of such size and dimensions as the Common Council shall direct.

SCHEDULE.

(A)

I do swear that I will faithfully perform the duties of Poll Clerk at the election of Commissioners of Sewers now to be holden, and a true record make of all votes given at such election according to law.

(B)

You do swear that you are the proprietor of acres of Marsh, situate in District number , in the Parish of , (or Division letter , in the Parish of , or acres in District number , and acres in District number , as the case may be, where the person claims the right to vote for more than one District,) and that you are entitled to vote therefor at this election, and that you have not before voted at this election.

(C)

You do swear that you are the proprietor of acres of Marsh, (or Bog, as the case may be,) situate in District number , in the Parish of , (or Division letter , in the Parish of , or acres in District number , and acres in District number , as the case may be, where the person claims the right to vote for more than one District,) and that you are entitled to vote therefor at this election, and that you have not voted before at this election.

(D) **POLL Book for the Election of Commissioners of Sewers for the Parish of**
letter in the Parish of, *as the case may be,* **in the County of**, **, held on** 18 .
, (or Division

(E)

**POLL BOOK for the Election of Commissioners of Sewers for
the Parish of Sackville, in the County of Westmorland, held
on Tuesday the day of April 18**

[Form same as preceding.]

TITLE XI. OF THE MILITIA.

CHAPTER 73.

OF BATTALIONS, REGIMENTS, AND COMPANIES, AND THE COMMANDER IN CHIEF.

Section.

1. The Militia, of whom and how formed.
2. Battalions, how formed.
3. Regiments, how formed.
4. Companies.
5. Militia inspection and exercise, how often, when, and by whom ordered.
6. Battalion drill, how often, how ordered, distance of travel.
7. Persons procuring substitutes, from what exempt.
8. Men shall appear, when ordered out, with arms, &c.; same to be inspected, by whose order.
9. Allowance to Quarter Master.
10. Power of Commander in Chief. In case of invasion, &c., who exempt from call.
11. When on actual service, where Militia can be ordered to march; disobedience of orders, forfeiture.
12. When called into actual service, how drafted.
13. Exempts, how disposed of in case of actual invasion.
14. Persons once drafted, how far exempt from another draft.
15. Firemen in cities or towns, where to do duty.

Section.

16. Quakers drafted; substitute, how obtained.
17. Any person drafted refusing to go or find substitute, proceedings.
18. Volunteers, how and under what rules accepted.
19. Pay of Militia in actual service.
20. Bonus of Officers, &c.
21. Coloured people, how enrolled, attached, and officered.
22. Boats to be built in case of invasion, by whose orders.
23. Artillery and Sea Fencible companies, how and by whom established; mode and time of drilling.
24. Neglect of officers and men of Sea Fencibles, forfeiture.
25. Cavalry, how and by whom established.
26. Arms and Accoutrements, how and by whom called in.
27. Inspecting Officers, by whom appointed, their duty.
28. If fines, &c., prove insufficient to meet expenses, how deficiency supplied.
29. Who may dispense with the duties imposed by this Title.
30. Allowance of Adjutants and Sergeant Majors, how and by whom fixed.

1. The Militia shall consist of every white male inhabitant from sixteen to sixty years of age, being British subjects, who shall be enrolled and formed into Battalions, Regiments, and Companies, as the Commander in Chief shall direct; in insular and remote situations, where the inhabitants do not exceed eighty, they may be formed into one Company. He may also divide the same County into two or more Battalions, prescribing the respective limits, and he may form two or more Battalions into Regiments.

2. Battalions shall be formed by Counties; if a County be sufficiently populous, the Commander in Chief may divide the same into two or more Battalions, defining the districts.

3. A Regiment shall consist of two or more Battalions as the Commander in Chief may direct.

4. A Company shall consist of not more than sixty rank and file, and be commanded by one Captain and two Subalterns,

and as many Sergeants and Corporals as the Officer commanding the Company shall appoint.

5. The Militia, for inspection and martial exercise, shall assemble one day in each year, according to the order of the Commander in Chief, interfering as little as possible with seed time and harvest; but no person shall be required to travel more than twelve miles from his usual place of residence to attend the training of the Battalion or Division to which he belongs.

6. Each Battalion (persons above forty five years of age excepted) shall rendezvous by Companies two days in each year for discipline and improving in martial exercise, according to the order of the Commanding Officer of the Regiment or Battalion, but no Company shall be required to travel more than twelve miles to its place of rendezvous.

7. Any person not being a substitute, embodied and on actual service for twenty days, or having procured a substitute for such service, shall not be required to attend Battalion or Company muster during the year such service is performed.

8. Every person enrolled, when ordered out, shall appear with arms, ammunition, and accoutrements as issued by the Government, or if he choose, with his own equally good and in complete order, and shall submit to such inspection of the same as may be ordered by the Commanding Officer of the Battalion.

9. Every Quarter Master shall be allowed ten per cent. in his general account of moneys for all sums received and paid by him, this allowance to cease when on actual service and on full pay.

10. The Commander in Chief, in case of actual invasion or imminent danger thereof, if he think it expedient, shall call out into actual service the Militia and exempts (except Ministers of the Gospel, Millers, and Ferrymen,) or any part thereof.

11. The Militia and exempts when so called into actual service, may be ordered to march to any part of the Province, and shall obey all lawful commands of superior Officers, under the penalty of incurring the forfeitures for disobedience of orders.

12. When the Militia are called out into actual service, a draft by ballot shall be made from each Company, according to the number fit for duty, on the oath of the Commanding Officer

of such Company, to the best of his knowledge (if required) of all persons from eighteen to fifty years of age, the ballot shall take place in the presence of a Justice; if there be no Justice residing near the place of ballot, then in the presence of at least three respectable freeholders exempt by age from such draft.

13. In case of actual invasion, all persons between eighteen and fifty years of age, being exempted, (except Ministers of the Gospel, one Miller to each grist mill, and one Ferryman to each established ferry) not belonging to any Company, shall be formed into a Company by and under the direction of the Commanding Officer of the Battalion, and shall be liable to the same draft as any other Company in proportion to their numbers then fit for duty; each person drafted shall go in his own person, or find a sufficient substitute.

14. Should the Militia be called out more than once, no person who has been once drafted shall be again drafted until all the others belonging to the same Company are drafted.

15. Firemen appointed to Engines in any city or town, shall be exempt from duty beyond the limits of the same respectively.

16. If a certified Quaker be drafted, and refuse to find a sufficient substitute, the Officer commanding the Company to which he belongs shall hire a substitute at his expense, not exceeding ten pounds.

17. Should any person drafted neglect to go or procure a substitute, and be fined as provided by this Title, another person shall be drafted in his stead, who upon complying with such draft, shall receive the half of the fine; the draft shall take place as often as the person drafted refuses to obey.

18. In case of invasion, volunteers, being in the opinion of the Field Officer or Officers of the Regiment or Battalion to which they belong, of able body, may be accepted, sworn, and subject to the same provisions as if they had been drafted.

19. When the Militia, or any part thereof, are called out into actual service, they shall be entitled to the same pay, according to their respective rank, as Her Majesty's regular troops respectively, to be reckoned from the day of march from rendezvous for actual service, until dismissed by the Commander in Chief, each man to receive one day's pay for every fifteen miles travel to his usual place of residence.

20. Each non-commissioned officer, drummer, fifer, bugler, and private, shall receive from the Province Treasury thirty shillings per month for every month they shall respectively have remained on actual service, not exceeding five pounds for each time they shall have been called into actual service, to be paid out of the Treasury.

21. All male people of colour between sixteen and fifty years of age in each County, shall be formed into Companies as expedient, attached to the Battalions within the district where they reside, officered as the Commander in Chief may direct, and be pioneers to the Battalions to which they are attached, and be subject to like drafts, duties, and penalties, in case of actual service, as the Militia.

22. In case of invasion, actual or threatened, the Commander in Chief may direct the building of such a number of boats for transporting the Militia as he may deem necessary, the expense of building not to exceed four hundred pounds.

23. The Commander in Chief may establish one or more Artillery Companies in any County or District, and determine the number of men attached to each Company; and shall also cause one or more Companies of Sea Fencibles, consisting of sea-faring people, to form a part of the Battalions of the Districts in which they are formed, and shall direct their mode of drilling, and instructing the officers and men of the same Companies; but the time required of the said officers and men shall not exceed that required by other persons belonging to the Militia.

24. Should the officers or men of the Companies of Sea Fencibles neglect to discharge the duties required under the direction of the Commander in Chief, they shall severally incur the like penalties as other persons of the like rank in the Battalions to which they belong, to be recovered and applied as provided for by this Title.

25. The Commander in Chief may establish such a number of Cavalry as he may judge expedient for the service, under such regulations as he may make, the persons enrolling themselves being subject to the like pains and penalties for any breach thereof as provided for other persons belonging to the Militia.

26. The Commander in Chief shall issue all orders for cal-

ling in any arms and accoutrements issued from the Queen's stores for the use of the Militia.

27. The Commander in Chief shall from time to time appoint proper officers to inspect, instruct, and command all the Battalions of the Militia, or limit the command and inspection to a particular number of Battalions, or in particular Divisions, Counties, or Districts.

28. If the fines, penalties, and sums of money received from any Battalion, after paying the contingent expenses thereof, be found insufficient to defray the expense of cleaning and keeping in repair the arms and accoutrements placed in depots for the use thereof, the Governor in Council may by Warrant order such further sum as may be necessary, not exceeding twenty pounds, to be paid out of the Provincial Treasury to the Commanding Officer of such Battalion, to be appropriated by him to the cleaning and keeping the said arms and accoutrements in repair.

29. The Commander in Chief may dispense with all or any part of the duties imposed under this Title, in his discretion.

30. The Commander in Chief shall fix the allowance to be made to the Adjutants and Sergeant Majors in proportion to the duty they shall perform, which allowance shall in no case exceed fifteen pounds to the Adjutant, nor seven pounds ten shillings to the Sergeant Major.

CHAPTER 74.

OF COMMANDING OFFICERS OF BATTALIONS AND REGIMENTS.

Section.

1. Commanding Officer, his duty as to districts, &c. Non-commissioned Officers, from what exempt.
2. To appoint time and place of muster, how.
3. Shall order inspection of arms, &c.; his power to confine, for what.

Section.

4. Shall appoint depots for arms, &c.
5. In case of invasion, his power to call out Militia; his duty thereupon.
6. In case of invasion, what, and who he may impress.
7. When he may impress, and what persons.

1. The Commanding Officer of the Battalion shall determine the extent of the districts of the Companies of his Battalion, and from time to time appoint a Sergeant Major, Quarter Master Sergeant, Clerk, Drummers, Buglers, and Fifers, to his Battalion, and shall furnish the Commander in Chief, when ordered, such rules, returns, and statements of his Battalion as may be required; he shall also take the Bond from the

Quarter Master of his Battalion as required by this Title, and, lodge the same in the Provincial Secretary's Office ; the Sergeant Major, Quarter Master Sergeant, and Clerk, so appointed, shall be exempt from all balloting for actual service.

2. The Commanding Officer of the Battalion or Regiments, when formed, shall appoint the times and places of rendezvous, arranging the different days convenient for the attendance on the several Companies of the Field and Staff Officers ; the Commanding Officer of any Battalion may assemble as many Companies together as he may judge expedient.

3. The Commanding Officer of each Battalion shall, once in each year, order an inspection of arms and accoutrements of his Battalion, and he may confine any person wilfully interrupting any body of Militia when on duty, during duty, if necessary.

4. The Commanding Officers of Battalions, when required by the Commander in Chief, shall appoint fit places within their respective districts as depots for arms.

5. The Commanding Officers of Regiments or Battalions, in case of invasion or imminent danger thereof, in the districts where the same is threatened, when the Commander in Chief cannot be consulted in time, may call out the Militia and exempts under his command into actual service, reporting his proceedings forthwith to the Commander in Chief, and the reasons thereof, and the danger, strength, and motion of the enemy.

6. The Commanding Officer of any Regiment, Battalion, Detachment, or Party, when the Militia or any part thereof are called into actual service, may impress boats, men, horses, and teams, as the service may require.

7. The Commanding Officer of the Militia, when it shall be necessary by any attack made or threatened suddenly in any sea port Town, or any place where merchant vessels may be lying, may compel the persons belonging thereto to do duty on shore with the Militia Artillery, or in any boat or vessel, or with any part of the Militia ; and in case of great emergency, the Commanding Officer of any Regiment or Battalion, to which an Artillery Company is attached, may demand the service of the whole or any part of such Company, or any Company of Sea Fencibles, or any of the Flank Companies.

CHAPTER 75.

OF CAPTAINS AND SUBALTERNS.

Section.

1. Captains to enroll persons.
2. To appoint Sergeants, &c.
3. To furnish Roll and state of arms, to whom.
4. To give notice of drill and inspection; what notice sufficient.
5. Subalterns to inspect arms, &c., when.
6. Adjutant, his duty, and pay.
7. Captains to make out lists of aliens, and transmit to Quarter Master.
8. Captain, duty as to list of exempted; duty of Quarter Master. Exempt money.

Section.

9. Officers, how to appear when ordered out.
10. Quarter Master to give Bond, to whom, and nature of.
11. Quarter Master's duty as to rendering account of fines, when and how. Fines, how disposed of.
12. Captains to fix the place of enrolment, what notice.
13. Commissioned Officers, their rank when on actual service.
14. Captains to pay money received by them, to whom and when; penalty for neglect.

1. Captains or Officers commanding Companies shall from time to time enroll in a book by them kept for that purpose, the names of all persons liable to serve in the Militia in their respective districts; in insular and remote situations where the number of persons liable to serve shall exceed sixty and not eighty, they may be enrolled in one Company.

2. The Captain or Officer commanding a Company, with the consent of the Commanding Officer of the Battalion, shall appoint Sergeants and Corporals for the Company under his command.

3. The Captain or Officer commanding a Company, when ordered, shall furnish the Officer commanding the Battalion a fair written roll of his Company, and a return of the state of their arms and accoutrements, with such other information respecting the Company as he may require.

4. The Captains or Officers commanding Companies shall cause notice of the times and places of the assemblies of the Battalions, Divisions, or Companies thereof, to be posted up by a non-commissioned officer (who shall attend to such duty) in three of the most public places within the districts of the several Companies, at least ten days before the respective times of meeting, which shall be a sufficient warning, and five days personal notice to the individual of the time and place of assembling shall be sufficient without such notice in writing.

5. The Subaltern Officers of each Company, each taking such part as the Captain or Officer commanding may direct, shall call on every man of the Company, at his residence, and inspect and examine his arms and accoutrements, and shall make a report in writing on oath of their condition to the Officer commanding the Company.

6. The Adjutants shall attend their Battalions when the same or any part thereof are ordered out, and shall at all times attend to such duty as may be required of them by the Commanding Officers of such Battalions; and upon the certificate of the then Commanding Officers that they have performed their duty, they shall receive from the Provincial Treasury for each year so certified, the sum allowed by the Commander in Chief under this Title.

7. The Captains or Commanding Officers of Companies shall on or before the first day of June in each year, make out and transmit to the Quarter Master of the Battalion, lists of all aliens within the districts of their respective Companies.

8. The Captains or Commanding Officers of Companies shall on or before the first day of June in each year, make out and transmit to the Officer commanding the Battalion, a list of all exempts residing within the districts of their respective Companies, specifying their ages and the causes of their exemption respectively, and shall furnish the Quarter Master of the Battalion with a copy thereof, who shall proceed to recover from each person so exempt the sum of ten shillings with costs before a Justice, to be levied on the goods and chattels of the said exempt, and in default thereof, the Justice shall commit the offender to gaol for ten days.

9. Every officer when ordered out shall appear equipped with a sufficient sword and belt.

10. The Quarter Master of every Battalion before commencing his duties as required under this Title, shall give a Bond to the Queen with two sufficient sureties, in the sum of two hundred pounds, conditioned for the faithful discharge of his duties, and his duly accounting for and applying all moneys received by him as such.

11. The Quarter Master of each Battalion shall every six months render an account to the Officer commanding the Battalion, of all fines, penalties, and sums of money received by him as such, which shall be disposed of as the Commander in Chief shall direct, after first paying the contingent expenses thereof.

12. Every Captain or Officer commanding a Company shall fix a time and place of meeting for enrolling all the Militia residing within the limits assigned for his Company,

giving at least ten days public notice of the time, place, and purport of such meeting.

13. The Commissioned Officers of the Militia, when on actual service with Her Majesty's regular or fencible forces, shall rank with the Officers of such forces as the youngest of their degree, being subject reciprocally to command and be commanded, as provided by the laws of Great Britain and the Articles of War, for the government of the Regular and Militia forces thereof, and subject to the like pains and penalties as provided in Chapter 77 of this Title.

14. Any Captain or Officer commanding a Company neglecting to prosecute within six months after the party shall become liable, or neglecting to pay to the Quarter Master any sums received by him, the Commanding Officer of the Battalion shall direct the Quarter Master to prosecute him for such neglect.

CHAPTER 76.

OF ALIENS.

Section.

1. Aliens to report their names, &c., when, and to whom.
2. Aliens, what to pay.

Section.

3. Aliens neglecting to pay, prosecution for.
4. Keeper of gaol to receive delinquent.
5. Alien indigent; relief, how and by whom.

1. All aliens who have resided two months in this Province shall report their names and place of residence to the Captain or Officer commanding the Company in the district where they reside, under the penalty of twenty shillings, to be recovered by the Quarter Master before a Justice.

2. All aliens residing two months in this Province shall pay to the Quarter Master of the Battalion where they reside the sum of thirty shillings each.

3. Such Quarter Master shall proceed for the recovery thereof, with costs of suit, before a Justice, and upon receipt thereof, the same, with costs of suit, shall be levied by distress and sale of such alien's goods and chattels, and for want thereof, such Justice shall commit him to gaol, there to remain without bail until the said fine and costs, with all fees, be paid.

4. The keeper of any gaol shall receive and keep such alien according to such warrant.

5. If such alien be unable to pay the same, and shall satisfy two Justices thereof, they shall discharge him out of custody and grant him a certificate thereof, and he shall not be held liable for the payment of the same for the year for which he shall have obtained such certificate.

CHAPTER 77.

OF COURTS MARTIAL.

Section.

1. General Court Martial, when and by whom ordered.
2. Of whom it shall consist.
3. Power to administer oaths.
4. Members of, on trial of field officer.
5. Oath of members of General Court Martial.
6. Judge Advocate, appointment of, by whom ; his oath.
7. His power to administer oath to the Court.
8. His pay for services.
9. Commissioned officers, for what offences to be tried by General Court Martial.
10. Commissioned and non-commissioned officers, and privates, how disposed of if guilty of mutiny, &c.
11. How tried.

Section.

12. What punishment Court Martial may order.
13. For what offences they may sentence to death.
14. Sentence not of force until approved.
15. Warrant for execution to be issued, by whom.
16. What the Warrant shall specify.
17. Warrant, when and how to be read.
18. Power of commanding officer to confine for offences, whom. Parties tried by Regimental Court Martial, by whom ordered.
19. Regimental Court Martial, of whom consisting. Powers of punishment.
20. If fine imposed be not paid, punishment.
21. Sentence to be approved, by whom ; disability of accuser.

1. The Commander in Chief when necessary shall, by warrant under his hand and seal, order a General Court Martial for the trial of offenders.

2. A General Court Martial shall consist of not less than thirteen commissioned officers of the Militia, and the President thereof shall be a Field Officer, who shall administer the oath as prescribed in Section 6 of this Chapter, to the Judge Advocate.

3. A General Court Martial shall administer oaths to the witnesses on the trial of any offender.

4. No officer under the rank of a Captain shall sit upon a Court Martial for the trial of a Field Officer.

5. In all trials by General Court Martial, the President and every Member thereof, before any proceeding be had, shall take the following oath :—

‘ I do swear that I will duly administer justice according to law, without partiality, favour, or affection, and that I will not divulge the sentence of this Court until it shall be approved by the Commander in Chief, nor will I at any

' time disclose or discover the vote or opinion of any particular Member of this Court, unless required by a Court of Justice in due course of law. So help me God.'

6. The Commander in Chief shall appoint a proper person to act as Judge Advocate at any such General Court Martial, who shall, previous to any proceeding had on any trial, take the following oath :—

' I do swear that I will not disclose or discover the vote or opinion of any particular Member of this Court Martial, unless required by a Court of Justice in due course of law. So help me God.'

7. The Judge Advocate shall, after taking the oath prescribed in the preceding Section, administer the oath prescribed in Section 5 of this Chapter, to the President and Members of the General Court Martial.

8. The Judge Advocate shall be allowed for his services twenty shillings per day during actual employment as such.

9. If any commissioned officer shall be guilty of disobedience of orders, neglect of duty, or any improper conduct, whether he be in actual service or not, he may be tried by a General Court Martial, and upon conviction shall be cashiered by sentence thereof.

10. If any officer, non-commissioned officer, or private, shall, when on actual service, begin, excite, or join in any mutiny, or knowing the same to be begun or intended, and shall not forthwith inform his commanding or other officer, or shall not when ordered, use every endeavour to suppress the same, or shall desert the command to which he belongs, or disobey orders, if a commissioned officer he shall be put under arrest by any superior officer, if a non-commissioned officer or private he shall be forthwith committed to gaol, by order in writing of his commanding officer.

11. All such offenders mentioned in the preceding Section, shall be tried as soon as convenient by a General Court Martial, which shall be ordered as prescribed by this Chapter.

12. The said Court Martial may punish with death, or by fine and imprisonment, in proportion to the enormity of the offence; the fine shall not exceed fifty pounds, nor the imprisonment six months.

13. No sentence of any Court Martial shall extend to death,

unless for desertion to the enemy, mutiny, and sedition, or for traitorous correspondence with or traitorously delivering up any garrison, fortress, post, or guard, to the enemy.

14. No sentence of any General Court Martial shall be carried into execution until it has been approved of by the Commander in Chief.

15. No person shall be put to death under the sentence of a General Court Martial, until a warrant under the hand and seal of the Commander in Chief shall issue for the execution.

16. The warrant shall direct the time and place for executing the sentence, by either hanging or shooting the offender, as ordered therein.

17. Before any person shall be put to death pursuant to the sentence of a General Court Martial, such sentence and warrant for the execution thereof shall be publicly read in the hearing of the bystanders, at the time and place appointed for such execution.

18. Any non-commissioned officer, private, or exempt, whether on actual service or not, who shall be guilty of any offence against the provisions of this Title, shall be confined by his commanding officer. The commanding officer of the Battalion, or of any party or command, not under the rank of a Captain, shall order a Regimental Court Martial to be forthwith held for the trial of such offender.

19. Such Regimental Court Martial shall consist of three commissioned officers at least, and when they can be had, of five, who may give judgment by fine, the same not to exceed forty shillings, and in addition thereto, if a non-commissioned officer, by reducing him to the ranks at their discretion.

20. If the offender neglect to pay the fine ordered by the Regimental Court Martial, it shall either be stopped out of his pay, or he shall be imprisoned for a term of eight days.

21. No sentence of such Regimental Court Martial shall be put in execution until approved of by the officer ordering the same, and no officer being the accuser shall be a Member of such Court.

CHAPTER 78.

OF EXEMPTS.

Section.	Section.
1. Persons exempt.	5. Fine, how excused.
2. Quakers, when and how exempt.	6. In case of actual invasion certain exempts to be drafted.
3. Certain Clerks exempt.	
4. Fines of exempts, to whom, and when paid.	

1. The following persons shall be exempt from being enrolled in the Militia, namely, Members of the Executive Council, Members of the Legislature, Ministers of the Gospel, persons exercising Commissions Civil or Military under the Queen, officers on half pay, supernumerary Militia officers, officers of the Customs, Revenue and Naval officers, Physicians and Surgeons, one Miller to each grist mill, and one Ferryman to each established ferry.

2. Any person professing to be a Quaker, producing to the commanding officer of the Battalion where he resides, a certificate to that effect, signed by two persons of that persuasion, shall be exempt from being enrolled.

3. Clerks employed in the military offices, announced as such in general orders, shall be altogether exempt from doing Militia duty, and from the payment of the exempt money.

4. Each person exempt as aforesaid (except the Ferrymen and Ministers of the Gospel) shall on or before the first day of September in each and every year, pay to the Quarter Master of the Battalion of the District where he resides, the sum of ten shillings.

5. Any person exempt shall be excused from paying the said ten shillings by enrolling himself in the Company of Militia in the District where he resides, and when enrolled, shall perform all the duties and be subject to all the pains and penalties of other men belonging to the Company.

6. In case of actual invasion, all exempts between eighteen and fifty years of age (except Ministers of the Gospel, one Miller to each grist mill, and one Ferryman to each established ferry) not belonging to any Company, shall be formed into a Company, by and under the direction of the officer commanding the Battalion, and shall be liable to the same draft as any other Company in proportion to their numbers then fit for duty, each person drafted shall go in his own person or find a substitute.

CHAPTER 79.

OF THE MILITIA MEN.

Section.

1. Sergeant Major, his duty and pay.
2. Duty of Militia men when ordered to man boats.
3. Wounded persons, how provided for.
4. Persons sued, what plea; time when action must be brought.
5. Freedom from arrest, who and when.
6. Arms, &c., when and from whence issued, how marked.
7. What officer responsible for arms, &c.

Section.

8. Duty of officers to take Bonds, to whom, and what penalty.
9. Bonds, where and by whom lodged.
10. Persons giving Bonds to keep arms, &c., how long.
11. Arms, &c., called in, deficiency, how supplied.
12. Persons returning arms, &c., entitled to receipt.
13. Battalions, &c., to remain as at present.

1. Every Sergeant Major shall attend to all the duties appertaining to his office, and such other seasonable duty as his Commanding Officer may order, and upon certificate of such officer that he has faithfully performed his duty, in and for every year so certified, he shall receive from the Provincial Treasury the sum allowed by the Commander in Chief under this Title.

2. Whenever the Commanding Officer in any County or District where boats are provided, shall find it necessary to order such or any other boats or vessels he may obtain, to proceed in repelling the enemy, or the assistance of any neighbouring district or place, or be stationed as a watch for the defence thereof, the Militia, and particularly the Sea Fencibles, shall, on the order of such Commanding Officer, proceed in such boats accordingly.

3. If any person be wounded or disabled when on actual service, he shall be provided for at the expense of the Province during his disability.

4. Any person sued for any thing done in the execution of his duty under this Title, may plead the general issue, and under such plea give any special matter in evidence; and no action whatever shall be maintained against any person for such cause, unless commenced within six months from the time of the act done for which such action is brought.

5. No non-commissioned officer or private shall be arrested upon any process, except criminal, while attending any training of his Battalion, Division, or Company, or on actual service, or marching to, or returning from the place appointed for such training or duty, except the original sum due for which he may be arrested shall amount to twenty pounds.

6. Arms and accoutrements, when necessary for the Militia, shall be issued from the Queen's stores ; the arms when issued shall be distinctly branded on the broad part of the butt with the letter (M), the name of the County to which issued, a capital letter to denote the Company to which they belong, and a number to distinguish each firelock to its owner ; the brand shall be provided by the Commanding Officer of the Regiment or Battalion.

7. All Captains and Officers commanding Companies shall be responsible, except in case of unavoidable accident, for the safe keeping and return (if called for) of the arms and accoutrements issued to the men in their respective Companies.

8. Such Captains or Officers shall take into their possession all such arms and accoutrements, unless the person to whom they are issued shall give a Bond with sufficient surety to the Queen in the penalty of five pounds, conditioned for the safe keeping and return of the same.

9. The Officers taking such Bonds shall lodge the same with the Clerks of the Peace in their respective Counties, who shall receive and file the same in their respective offices.

10. The person giving such Bond shall keep possession of such arms and accoutrements while he continues in the same Company ; in case of removal they shall be returned to the Captain or Officer commanding the Company, who shall give him a receipt for the same.

11. Should the said arms and accoutrements at any time be called for to be delivered into the Queen's Stores, all deficiencies shall be paid for out of the Provincial Treasury, except such arms and accoutrements as shall have been lost on actual service against the enemy.

12. Any person having in possession such arms and accoutrements shall on demand forthwith return them to the Quarter Master of his Battalion, who shall give him a receipt for the same.

13. The Battalions of Militia, the districts of the respective Companies comprising the same, and the enrollments of the men therein, shall continue as they now are until altered under this Title.

CHAPTER 80.

OF FINES, MODE OF RECOVERY, AND APPLICATION.

Section.	Section.
1. Fine of drummers, &c., guilty of certain offences.	16. For carrying or attempting to carry same out of Province.
2. For not appearing at muster.	17. Master of vessel receiving arms, &c., when.
3. For not appearing with arms, &c.	18. For purchasing arms, &c.
4. For not submitting to inspection of arms, &c.	19. Application of the four last mentioned fines.
5. For wilfully interrupting Militia.	20. Imprisonment of delinquents, when, and how long.
6. Of Officer for not appearing with sword and belt.	21. Fine for neglecting to return arms, &c., when called for.
7. Of Sergeant Major, Quarter Master Sergeant, and Clerk, for what offences.	22. Who shall institute proceedings for the recovery of last mentioned fine.
8. Quarter Master neglecting to render his Accounts, &c., fine.	23. Persons not enrolled, neglecting to enroll after notice, fine.
9. Fine for refusing to go when called out for actual service.	24. Persons of a certain age not enrolling, fine.
10. For refusing to go when drafted.	25. British subject coming to reside, not enrolling after certain time, fine.
11. For Quaker refusing to go when drafted.	26. Fines, in whose name to be recovered.
12. For enticing Militia man when on service to desert.	27. To whom paid.
13. For ferryman refusing to ferry Militia.	28. Constable neglecting to collect or pay, how, and by whom proceeded against.
14. For using arms, &c., except for the purpose furnished.	29. Fines, how appropriated.
15. For selling, &c., arms, &c.	

1. Any drummer, bugler, or fifer, duly appointed, neglecting to perform his duty, or being guilty of any misbehaviour as such, shall for each offence forfeit forty shillings.

2. Any non-commissioned officer or private not appearing at any Battalion or Company muster, shall pay a fine of ten shillings for each day's neglect, and if after having appeared he shall absent himself from such muster without leave from his commanding officer, he shall for each absence pay a fine of ten shillings; neither of these fines shall be enforced against any person prevented from attending by sickness or lameness, the extreme sickness of any part of his family, or unforeseen or unavoidable circumstances, he verifying the same on oath.

3. Any enrolled person when ordered out, appearing without the arms, ammunition, and accoutrements issued by Government, or with the same, or any part thereof, in the opinion of the commanding officer not being in serviceable condition, shall pay a fine of not less than ten nor more than twenty shillings.

4. Any person who shall refuse to submit to the inspection of his arms and accoutrements when ordered, or which on inspection shall be in unserviceable condition or deficient, shall in either case pay a fine of not less than ten nor more than twenty shillings.

5. Any person wilfully interrupting any body of Militia

while on duty or at exercise, shall pay a fine not exceeding twenty shillings for each offence. If no goods and chattels of the offender whereon to levy to satisfy the same can be found, he shall be imprisoned four days, unless the fine and costs are sooner paid.

6. Any officer when ordered out, appearing without a sufficient sword and belt, shall pay a fine of forty shillings for each offence.

7. Any Sergeant Major, Quarter Master Serjeant, or Clerk, duly appointed, shall for any disobedience of orders, or any contemptuous or improper behaviour as such, pay a fine not exceeding forty shillings.

8. If any Quarter Master shall neglect to render his accounts, or neglect to recover the several sums which aliens and exempts are liable to pay yearly under this Title, he shall for every neglect of these or any other duties required of him by this Title, pay the sum of forty shillings.

9. Any person liable to be called out in case of actual or threatened invasion, who shall when called on refuse to go, shall pay a fine of ten pounds, or forthwith be committed to gaol, by order in writing of the commanding officer of his Battalion or Company, where he shall remain for three months, or until the fine be paid.

10. Any person drafted for actual service neglecting to obey said draft, or to find a substitute according to the provisions of this Title, shall pay a fine of ten pounds.

11. Any Quaker when drafted refusing to go or find a substitute according to the provisions of this Title, shall pay a fine not exceeding ten pounds.

12. Any person who shall entice or encourage a Militia man when on service to desert, or aid, assist, or harbour any deserter knowing him to be such, shall for each offence pay a fine of ten pounds; on failure of payment shall be committed to gaol, there to remain for three months, or until the fine be paid.

13. Any ferryman exempt from training who shall, when the Militia or part thereof are called out, refuse to carry them over his ferry, either going to the place of rendezvous or returning therefrom, shall for each offence pay a fine of ten shillings.

14. Any person furnished with arms, accoutrements, or ammunition by Government, using the same or any part thereof for any other purpose than that for which they were furnished, shall for each offence pay a fine of ten shillings.

15. Any person furnished with arms, accoutrements, or ammunition by Government, vending, p~~l~~edging, or exchanging the same or any part thereof, without the consent of his commanding officer, shall for each offence pay a fine of ten pounds.

16. Any person furnished with arms, accoutrements, or ammunition by Government, conveying or causing the same or any part thereof to be conveyed out of this Province, or conveying, or causing the same to be conveyed on board any ship, boat, or vessel, with intent to have the same conveyed out of this Province, shall for each offence pay a fine of ten pounds.

17. Any master of any ship, boat, or vessel, wilfully receiving into the same any arms, accoutrements, or ammunition issued by Government, intending to convey the same out of this Province, shall for each offence pay a fine of ten pounds.

18. Any person purchasing any arms, accoutrements, or ammunition issued by Government, shall for each offence pay a fine of ten pounds.

19. The fines mentioned in the four preceding Sections when recovered, shall be applied, after deducting costs and charges, one half to the party prosecuting for the same, the other half to the Quarter Master of the Battalion to which such arms, accoutrements, and ammunition belong.

20. If there can be found no goods and chattels of the offender whereon to levy to satisfy such fine and costs, he shall be imprisoned in the common gaol for a term not exceeding six nor less than three months.

21. Any person having in his possession any arms, accoutrements, or ammunition furnished by Government, neglecting to return the same complete to the Quarter Master within ten days after public notice of calling in the same, he and any person persuading, exciting, or endeavouring to induce him so to offend, shall for each offence pay a fine of five pounds, and for want of effects whereon to levy such fine and costs, the offender shall be imprisoned in the common gaol for a term not exceeding twenty nor less than ten days.

22. No conviction shall take place for any offence committed against the preceding Section, unless at the instance of the officer commanding the Battalion to which the offender belongs.

23. Any person not being enrolled who, after public notice given as required by this Title, shall not present himself and give in his name, age, and residence, or cause the same to be made known in some certain way to the Captain or officer commanding, attending at the time and place fixed for the meeting, shall pay a fine of ten shillings.

24. Any person who shall not within two months after attaining the age of sixteen years, either present himself for enrolment, or cause his name, age, and residence to be made known to the Captain or officer commanding the Company in the limits where he resides, shall pay a fine of ten shillings.

25. Any British subject of the age of sixteen years coming to reside in this Province, who shall not within four months after his arrival therein, present himself for enrolment, or make known his name, age, and residence to the Captain or officer commanding the Company in the limits where he resides, shall pay a fine of ten shillings.

26. All the fines mentioned in the preceding Sections, shall be recovered in the name of the commanding officer of the Battalion, before a Justice.

27. All fines, penalties, and sums of money whatsoever received or recovered under any of the provisions of this Title, shall be paid into the hands of the Quarter Master of the different Battalions entitled to receive the same.

28. Any constable delaying to collect any fine or penalty from any delinquent, or delaying to pay over when collected to the Quarter Master of the Battalion entitled to receive the same, shall be liable to an action of debt at the suit of the commanding officer of the Battalion, in any Court having jurisdiction.

29. All fines, penalties, and sums of money received and recovered under this Title, from any Battalion of Militia, shall be appropriated by the Commander in Chief to such an amount as may be necessary for cleaning and keeping in repair the arms and accoutrements placed in the depots appointed for the use of such Battalions

CHAPTER 81.

OF THE MILITIA OF SAINT JOHN.

Section.	Section.
1. Saint John, east side, exempt from what.	11. Deficiency in any Company, how supplied.
2. Division of districts.	12. Consent, &c., required to join a Uniform Company.
3. Appointment of enrolling officer, by whom; his pay.	13. Consent on changing from one Uniform Company to another.
4. Enrolling officer to keep muster roll; Captains to furnish him with list.	14. Person belonging to a Uniform Company neglecting to appear in uniform, forfeiture.
5. Enrolling officer to appoint time for enrolling, how.	15. Lists of exempts and aliens, by whom, to whom, and for what purpose furnished.
6. Who shall compose the Companies, and how selected.	16. Certain disputes, how and by whom determined.
7. Change from one Company to another, by whose consent.	17. Fine for not enrolling, when and by whom collected.
8. Unattached persons, how disposed of.	18. Fines, how applied.
9. Power of officers over unattached Divisions, &c.	19. This Chapter where only in force.
10. Order for forming unattached Companies.	

1. The appointment of Company Districts as required by this Title, shall not extend to that part of the City of Saint John lying on the eastern side of the Harbour of Saint John, or the Militia belonging thereto.

2. All persons liable, or who may become liable to Militia duty, resident in King's, Wellington, and Duke's Ward, shall belong to the first Battalion, and those resident in Queen's and Sydney Wards to the second Battalion.

3. The Commander in Chief shall appoint a Regimental enrolling officer for the said eastern side of the said City, who shall be allowed for his services such yearly sum as the Commanding Officer of the Regiment, with the approbation of the Majors of both Battalions, may direct, to be paid out of the fines and other contingent moneys of the said Battalions, each paying an equal proportion thereof.

4. The said enrolling officer shall keep a general muster roll of all persons liable to do duty in the said City Militia, in order to which the several Captains or Officers commanding Companies in said Militia, shall furnish him with lists of the persons belonging to such Companies.

5. The said enrolling officer, with the approbation of the officer commanding the said Militia, shall appoint a time for taking the enrolment of all persons liable to do Militia duty; he shall put up notices thereof in the most public places of the City requiring all persons liable and not enrolled to come and enroll themselves, or send a written notice of their names, ages, and places of abode, and advertise the same in all the

Newspapers of the City, at least ten days before the time appointed.

6. The persons contained in the said lists shall, to the extent allowed by this Title, compose the Companies of such Captains respectively ; if any contain more than the proper number, the Captains thereof shall select thereout such as they please to compose their respective Companies ; the remainder shall be considered unattached, but belonging to the Battalion.

7. When the Companies are formed as in the preceding Section, no change from one Company to another in the same Battalion shall be allowed without the consent of the Major commanding such Battalion, or from one Battalion to another without the consent of the Majors of both Battalions.

8. The persons unattached of each Battalion shall be appointed to such Companies as the enrolling officer, with the approval of the officer commanding the Battalion, may direct ; the remainder shall be formed into divisions or Companies under the command of such officers as the commanding officer of the Battalion may select, for the purpose of drill and exercise.

9. The officer appointed to the command of any such division or Company shall have the same power as the Captain of any Company possesses, with respect to his Company.

10. A general order may be issued, forming such unattached persons or any of them into regular Companies, as additional Companies to the said Battalions, or either of them.

11. Any of the present Companies that are or may become deficient in number may, with the consent of the officer commanding the Battalion, complete the same out of the unattached list of such Battalion ; and persons unattached may, with the consent of the officer commanding, enroll themselves in any Company so deficient until the same is complete.

12. Any person may with the consent of the Captain of a uniform Company in his Battalion, and of the officer commanding such Battalion, attach himself to such Company, first giving notice of his intention to the enrolling officer, and the officer commanding the Company he is desirous of leaving (if belonging to one), providing himself with the uniform of the Company he intends attaching himself to.

13. No person shall change from one uniform Company to

another without the consent of the officers commanding both Companies, and the officer commanding the Battalion.

14. Any person attached to a uniform Company, neglecting to appear in such uniform when ordered out to drill or inspection, may by the order of the officer commanding the Battalion, be removed from such Company and placed on the unattached list, or attached to any other Company the said commanding officer may appoint.

15. The Quarter Masters of the Battalions shall furnish lists of all exempts and aliens, with their places of abode within their respective districts, to the said enrolling officer, who shall enter the same in a book kept by him for that purpose, and they shall on or before the first day of June in each year proceed to the collection of the fines from such exempts and aliens.

16. If any dispute arises as to what Company any man belongs, the officer commanding the Battalion shall determine, and his decision shall be final.

17. Any person not enrolled liable to do Militia duty, neglecting to enroll or to send a written notice of his name, age, and residence to the enrolling officer, after notice and advertisement given as prescribed by Section 5 of this Chapter, shall pay a fine of twenty shillings, and also ten shillings for each day he may be absent from Militia duty, which shall be recovered with costs in the City Court at the suit of the said enrolling officer.

18. The fines when collected shall be applied as directed by Section 29 of Chapter 80 of this Title.

19. The provisions of this Chapter shall not extend to any other of the Militia Forces of this Province than those of the eastern part of the City of Saint John.

CHAPTER 82.

OF ARTILLERY AND SEA FENCIBLE COMPANIES.

Section.

1. Artillery, &c., formed into Battalions, by whom.
2. What non-commissioned officers and privates exempt from draft, and when.
3. Duties and liabilities of volunteers

Section.

4. Volunteers when called into actual service, by whom commanded.
5. Refusing to perform duty, fine, recovery.
6. Being fined, subject to what.
7. Artillery, &c., under whose control.

1. The Commander in Chief may form the Artillery and Sea Fencible Companies into separate Battalions.

2. The non-commissioned officers and privates of the said Corps respectively, and the non-commissioned officers and privates of any uniformed Company of Dragoons or Riflemen, submitting their names through their respective commanding officers to the Commander in Chief as volunteers for actual service, shall be exempt from draft by ballot.

3. The persons so volunteering shall perform all the duties required of them by the Commander in Chief, and be subject to all fines and penalties imposed by this Title on persons drafted by ballot.

4. When such volunteers are called out into actual service, they, or such portions of them as may be required, shall be under the command of their own officers respectively, and shall be formed into Companies distinct from persons drafted by ballot.

5. Any such volunteer refusing when called upon to perform any duty required of him, shall pay a fine of ten pounds, if he neglect or refuse to pay the same, his commanding officer shall by warrant commit him to the nearest common gaol, there to remain for a period of three months, or until the said fine be paid.

6. After such refusal and payment of the said fine, or suffering such imprisonment, he shall, in case of a draft by ballot, be subject thereto.

7. Nothing in this Chapter shall exempt any of the said Artillery, Sea Fencibles, Dragoons, or Riflemen, from the control and command of the Officer commanding the Regiment or draft to which they may be attached.

CHAPTER 83.

OF THE SUSPENSION OF CERTAIN SECTIONS OF THIS TITLE.

Section.

1. Certain Sections of certain Chapters suspended, how long.

Section.

2. Revived and enforced, how, and by whom.
3. When in full force.

1. Sections 5, 6, 7, and 8 of Chapter 73; Section 2 of Chapter 74; Sections 4, 6, 7, 8, and 9 of Chapter 75; Sections 1, 2, 3, 4, and 5 of Chapter 76; Sections 4 and 5 of Chapter 78; Section 1 of Chapter 79; and Sections 2, 3, and 6 of Chapter 80, of this Title, are suspended until the first day of May one thousand eight hundred and fifty six.

2. If at any time the Commander in Chief shall deem it necessary to revive the said several suspended Sections, and to declare them to be in full force, he may by Proclamation, to be published in the Royal Gazette, or as he may deem expedient, revive the said several suspended Sections and declare them in full force.

3. Immediately on the publication of such Proclamation the said several suspended Sections shall be in full force.

TITLE XII.

OF THE NATURALIZATION OF ALIENS.

CHAPTER 84.

Section.

1. Who may be naturalized.
2. Oath, &c.
3. Judge to file certificate of oath; proof, how made.

Section.

4. False swearing, perjury; penalty, &c.
5. Women, when naturalized.

1. Any person of foreign birth having resided in this Province for seven years shall, upon taking and subscribing the oath hereinafter prescribed, be entitled to all the privileges of a natural-born subject of Her Majesty.

2. Such oath shall be as follows, viz :—

‘ I A. B. of , do swear that I have resided seven years in this Province, without having during that time been a stated resident in any foreign country, and that I will be faithful and bear true allegiance to the Sovereign of Great Britain and Ireland, and of this Province as dependent thereon.—So help me God :’

and shall be administered by a Judge of the Supreme Court in open Court, either at Bar or Nisi Prius, between the hours of nine and twelve in the forenoon, and at the same time subscribed by such person in a book to be kept for the purpose.

3. The Judge administering such oath shall cause a certificate thereof to be transmitted to the Office of the Provincial Secretary, which shall be entered in a book to be kept for that purpose in his Office, and a copy of such certificate, certified under the Seal of the Province, shall be sufficient proof thereof, and of such person being admitted to all the privileges aforesaid in all Courts whatsoever.

4. If any person shall falsely swear to the facts of residence in such oath contained, he shall be guilty of perjury, and liable to the penalty incident thereto, and upon conviction, shall forfeit all the privileges to which he might have been entitled under this Chapter.

5. Every woman married to a natural born British subject, or naturalized person, shall be deemed to be naturalized, and shall have all the privileges of such subject.

TITLE XIII. OF INDIAN RESERVES.

CHAPTER 85.

Section.

1. Surveys of Reserves authorized, by whom.
2. Selling and leasing them, how.
3. Appointment of Commissioners, and their duties.
4. Further duties of Commissioners.
5. Proceeds of sales and leases, to whom paid. Expenses, and Commissioners' remuneration.
6. Separate account to be kept, by whom.

Section.

7. Proceeds, how appropriated.
8. Proceeds to bear interest, when.
9. Improvements of persons in possession protected, when.
10. Villages and Town Plots laid off, and grants to Indians, when, and by whose order.
11. Grant to carry on surveys, extent of, and how refunded.

1. The Governor in Council shall cause surveys to be made of the Indian Reserves, or such parts thereof, in Counties where the same are situated, as they deem expedient; the surveys to distinguish the improved lands, the forests, and lands fit for settlement, with such other information as may be required.

2. The Governor in Council shall cause such Reserves, or any part thereof, to be leased or sold under the direction of the local Commissioners to the highest bidder, at public auction, in the Shire Town, giving sixty days previous notice thereof in the Royal Gazette, and posting handbills in three of the most public places in the County where the lands lie, upon the conditions determined by the Governor in Council, the term of lease not to exceed fifty years.

3. The Governor in Council shall appoint Commissioners, not exceeding three for each County containing such Reserves, who shall look after the same, superintend the survey and sale thereof under the provisions of this Chapter, take charge of

the interests of the Indians generally in their respective Counties, and prevent trespassing on the Reserves.

4. The said Commissioners shall faithfully perform their duties, keep a correct account of the lands leased and sold under their supervision, and the proceeds of the same, and of all other moneys by them received for the benefit of the Indians from any source, and make semi-annual returns of their doings, receipts, and expenditures, on oath, with the necessary vouchers, to the Governor in Council.

5. The proceeds arising from the sales and leases, with the rents and profits of such Reserves, shall be paid to the local Commissioners respectively, who shall semi-annually pay such proceeds to the Provincial Treasurer, retaining five per cent. on all moneys received and paid by them respectively for their trouble, with the costs of survey and necessary expenses.

6. The said Treasurer shall keep a distinct and separate account of all moneys so paid to him by the Commissioners, shewing the amount received from each County.

7. The proceeds annually arising from the sales and leases, rents and profits aforesaid, deducting expenses, shall be applied to the exclusive benefit of the Indians as far as practicable in the following manner: first, for the relief of indigent and infirm Indians; second, for procuring seed, implements of husbandry, and domestic animals, as the Governor may direct. The money shall be drawn from the Treasury by Warrant of the Governor in favour of the local Commissioners as required, the amount annually to be drawn shall not exceed the amount of the rents and profits realized from the Reserves the preceding year, and the annual interest of the purchase money of the lands sold and paid to the Treasurer.

8. All the moneys so paid into the hands of the Treasurer shall be on interest from one month thereafter until paid out, which interest shall be provided for by an annual grant of the Legislature.

9. In selling, leasing, or disposing of the Indian lands, or portions thereof, regard shall be had to the improvements made by the person in possession, whether under sale or leased from the Indians, or otherwise, so as to secure to him a just remuneration for such improvements.

10. The local Commissioners, under the direction of the

Governor in Council, shall lay off any tract of such Reserves, or any part thereof, into villages or town plats for the exclusive benefit of the Indians of their County, the same consisting of not more than fifty nor less than five acres ; location tickets of these lands free of expense shall be granted to such Indians as the Governor in Council may deem fit objects therefor, to any of whom the Governor in Council may make absolute grants thereof free of expense, after they shall have resided upon and improved the same for at least ten years.

11. To provide for the surveys and the carrying the provisions of this Chapter into effect, the Governor in Council may draw by Warrant from the Treasury a sum not exceeding one hundred and fifty pounds, which shall be refunded from the proceeds of the Indian lands.

TITLE XIV.

OF SEAMEN.

CHAPTER 86.

OF REGULATIONS FOR SEAMEN.

Section.

1. When seamen exempt from arrest.
2. Proceedings against seamen refusing to do duty.
3. Harbouring, &c., deserters, and desertsion; penalty.
4. Search Warrant to be issued, when.
5. No money to be given or received for procuring seamen; if given, how recovered back.
6. Seaman, when bound to perform voyage.

Section.

7. Penalty for aiding seamen to desert, &c.
8. Seamen's property detained, proceeding therefor.
9. Seaman entering Her Majesty's service, his rights.
10. Proceedings for wages under £20.
11. A seaman proceeding in Admiralty Court when his remedy was before Justice, penalty.

1. If any person shall give crédit to any seaman of any vessel registered in or belonging to this Province, while the vessel shall be within the precincts thereof, without the allowance of the master, no process of arrest of such seaman for any debt so contracted shall be served upon him until he shall have performed the voyage or be discharged, and such process shall be void; and any Justice of the Court from which such process shall issue, or Justice of the Peace in a case of five pounds or under, to whom it shall be made to appear that any seaman is detained upon such process, shall forthwith order his release.

2. Any seaman of such vessel launched or preparing for sea, refusing to do his duty, or absenting himself without leave, upon complaint on oath by the owner, consignee, or master, to any Justice, such Justice shall cause such seaman to be forthwith brought before him by warrant, and upon conviction shall commit him to prison, that he may be kept and delivered by order of a Justice when required to proceed on the voyage ; incidental charges to be deducted from such seaman's wages. The complainant shall supply the seaman with necessary food and bedding during such detention, and pay to the gaoler his lawful fees, and in default thereof, the gaoler may furnish such supplies and maintain an action therefor, together with the fees, against the person complaining, in any Court having competent jurisdiction.

3. Whosoever shall hire, harbour, or conceal any seaman who shall have signed any former articles, knowing him to have deserted from or to belong to any other vessel registered as aforesaid, on conviction before any two Justices where the offence is committed, shall pay such sum as the said Justices shall adjudge, not exceeding ten pounds, one moiety to be paid to the prosecutor, the other moiety to the County Treasurer where the offence is committed, for the use of such County. Every desertion by a seaman during the voyage shall, besides the forfeiture incurred, subject him to the loss of all the wages he may be entitled to on board the vessel entered by him after such desertion, to be detained by the master or owner of such vessel, to and for the use of the owner of the vessel from which he deserted.

4. If proof be made on oath by the owner, consignee, or master of any such vessel, before a Justice, that any seaman belonging to and who may have deserted from the same, be kept, or be suspected to be kept on board of any other vessel within any of the harbours of this Province, or in any house or place within the County of such Justice, he may issue his warrant to any constable to make search on board such vessel, or in such house or place, and if found, shall deliver him to the complainant to be taken on board such vessel, or he shall be committed by such Justice to prison, to be sent on board when the vessel is ready for sea.

5. It shall not be lawful for any person directly or indirectly

to give or receive any money to or from any other person, for procuring any seaman for any vessel. The money so given or received shall be considered as given or received without consideration, and may be recovered back by action or suit in any Court having competent jurisdiction, and all contracts made for any of such purposes shall be void.

6. No seaman shall be bound for the performance of any voyage on board any such vessel, unless he shall sign the ship's articles, which shall declare his wages and describe the nature of the voyage.

7. If any person shall aid or entice any seaman to desert from any such vessel, or provide for him the means to desert therefrom, or aid him in the removal of his chest, bedding, apparel, or other property from on board any such vessel, or convey him therefrom without the sanction of the master, the person so offending shall upon conviction be liable to the same penalties and forfeitures as contained in the third Section of this Chapter, to be applied as therein provided.

8. If any person shall detain any seaman's chest, bedding, apparel, or other property, a Justice, upon complaint made by such seaman on oath, shall issue his warrant to a constable, requiring him to bring the property before him, and to summon the person detaining the same before him, to answer the complaint ; and on hearing the parties and their witnesses, or on proof that the person required to be summoned could not be found, and that a copy of such warrant was left at his last place of abode, the Justice shall make such order touching the property as is just, or he may order payment to the complainant of the value thereof, together with the costs of prosecution ; no proceedings shall be had if the value of the articles detained exceed twenty pounds, and no person shall be allowed a lien on the said property if it shall appear that the seaman at the time of application was a deserter from or belonging to any such vessel.

9. Nothing herein shall prevent any seaman entering on board any of Her Majesty's vessels of war from recovering for services performed, and property belonging to him on board of any such vessel, subject to the deduction of any charges to which the seaman may then be liable under this Chapter.

10. In all cases of wages not exceeding twenty pounds due

to a seaman for his services in any such vessel, a Justice residing at or near to the place where the vessel shall have ended her voyage, cleared at the Custom House, or discharged her cargo, or where the master or owner shall be, upon complaint on oath by any such seaman, or on his behalf, shall summon such master or owner before him to answer such complaint; and upon his appearance, or default thereof, on proof of his having been so summoned, the Justice shall examine upon oath the parties, and their respective witnesses, touching the amount of wages due, and shall make such order for the payment thereof as to him may appear just; and if such order be not obeyed within two days after the making thereof, he shall issue his warrant to levy the amount of the wages awarded, by distress and sale of the goods and chattels of the defendant, rendering to him the overplus (if any) after deducting all charges incurred by the seaman in the proceedings; and if sufficient distress cannot be found, the Justice shall cause the amount of the said wages and expenses to be levied on the vessel, or the tackle and apparel thereof; and if such vessel shall not be within the jurisdiction of such Justice, he shall cause the defendant to be taken and committed to the common gaol of the County, there to remain without bail until payment shall be made of the wages so awarded, and all charges incurred as aforesaid; and the decision of such Justice shall be subject to review, as provided in and by the Act of Assembly giving jurisdiction to Magistrates in civil cases.

11. If any suit for the recovery of seamen's wages should be instituted against the vessel, or the master or owner thereof, in the Court of Vice Admiralty, or in any Court of Record, and it shall appear to the Judge that the plaintiff might have had as effectual a remedy for the recovery of his wages by complaint to a Justice, he shall certify to that effect, which shall deprive the plaintiff of the costs of suit.

CHAPTER 87.

OF REGULATIONS FOR SHIPPING SEAMEN AT THE PORT OF SAINT JOHN.

Section.

1. Appointment of Shipping master.
2. Appointment of Deputies; Bonds, &c.
3. Who shall not be Shipping master.

Section.

4. Shipping master to receive fee and keep a Register.
5. By whom seamen to be hired, &c.

Section.	Section.
6. No ship owner, &c. to take seamen previously engaged.	12. Who may board any vessel before entering dock; who may arrest.
7. Penalty for offences.	13. Soliciting seaman to become a lodger, &c., penalty.
8. Shipping master employing any other person to ship seameu, penalty.	14. Taking more than is due from seaman, or detaining his property, &c., penalty.
9. Seamen absent without leave, penalty.	15. Penalties, how recovered and applied.
10. When advance pay or note may be given.	16. Coasting vessels exempt, what from.
11. Receiving remuneration for providing seamen, penalty.	17. Provisions extended to all sea ports, how.

1. The Governor in Council may appoint a fit person to be Shipping master for the Port of Saint John, who shall, before entering upon his duties, execute a Bond to the Queen, with two sufficient sureties, in the sum of five hundred pounds, for the faithful discharge of such duties, and take and subscribe the following oath before any Justice:—

‘I A. B. do swear that I will faithfully perform the duties of Shipping master according to the true meaning of Chapter 87 of Title XIV., that I will not directly or indirectly receive from any person any fee, reward, or gratuity in respect of my office as shipping master, except such as are allowed by law, but I will act impartially and to the best of my knowledge.—So help me God.’

Which oath and bond shall be filed in the office of the Provincial Secretary.

2. The shipping master may appoint so many deputies for the said Port as shall be necessary, who shall take and subscribe the above oath before any Justice, to be filed as aforesaid; any deputy so appointed shall, with two sufficient sureties, enter into a Bond to the Queen in the sum of two hundred pounds, for the faithful discharge of his duties, which bond shall enure to the benefit of all parties who may be injured by the unlawful conduct of such deputy, such parties may recover on such bond, before any Court of competent jurisdiction, damages to the extent of the injury sustained by them.

3. No person selling any spirituous liquors shall be eligible to the situation of shipping master or deputy.

4. The shipping master shall be entitled to receive the sum of two shillings and six pence from the master of the vessel on board which any seaman shall be shipped by him, and he shall keep a registry of all seamen so shipped, which shall be open for public inspection.

5. No person other than the shipping master shall hire or engage a seaman to be entered on board any vessel.

6. No owner, part owner, master, or consignee of any vessel, shall knowingly receive on board the said vessel any seaman who has been engaged or hired to be entered on board any other vessel.

7. Every person acting contrary to the provisions of this Chapter, shall pay for every offence a sum not exceeding ten pounds.

8. If the shipping master shall employ any other person for the purpose of procuring seamen to be entered on board any vessel, he shall pay a sum not exceeding ten pounds, and shall also be deprived of his office.

9. For every day any seaman shall be absent without leave, he shall forfeit to the shipowner two days pay, and if absent when unmooring or getting the ship ready for sea, shall forfeit one pound.

10. The owner, part owner, or master of any vessel, shall not pay in advance, nor give any note in writing or otherwise, in the nature of or purporting to be an advance note for any part of the wages for the seamen provided to be entered on board the said vessel, until three days after sailing of the vessel with the men certified by the master of said vessel to be on board at the time of sailing, except such money as may be necessary for supplying the seaman and his family during his absence.

11. Whoever shall demand or receive from any person other than the owner, part owner, master, or person requiring a seaman, any remuneration for providing any such seaman, he shall forfeit for each offence a sum not exceeding five pounds.

12. Any person other than an officer of the Government, harbour master, health officer, or pilot, who shall board any merchant vessel before her arrival in dock, or at the place of her discharge in the Port of Saint John, without the consent of the master, shall for each offence forfeit a sum of money not exceeding fifty pounds; and for the better securing the offender, the master is hereby authorized to arrest and deliver him forthwith to any constable, to be taken before a Justice to be dealt with according to law.

13. If any person shall board any vessel within twenty four hours after her arrival at the Port aforesaid, and solicit any seaman to become a lodger at the house of any person letting

lodgings for hire, or shall take from such vessel any of the effects of any seaman except under his personal direction, without the consent of the master, he shall pay for each offence a sum not exceeding ten pounds.

14. Whoever shall receive from any seaman payment for his board and lodging more than may be due, or receive any of his money, documents, or effects, and shall not return the same on demand, after deducting the amount due for his board and lodging, shall forfeit a sum not exceeding ten pounds, besides the amount or value of such money, documents, or effects, which shall be adjudged to be forthwith paid to such seaman by a Justice who may convict the offender.

15. All forfeitures hereby imposed may be recovered with costs, one moiety to be paid to the informer, and the other to the Commissioners for the benefit of the Saint John Marine Hospital.

16. This Chapter shall not extend to such vessels as are prosecuting the coasting trade.

17. The provisions of this Chapter may be extended to all other Sea Ports within this Province, upon the application to the Governor in Council by the Justices in General or Special Sessions of any County called for that purpose.

TITLE XV. OF LUNATICS.

CHAPTER 88.

OF THE MANAGEMENT OF THE ESTATES OF LUNATICS.

Section.

1. Freehold or leasehold estates, when and by whose order sold or mortgaged.
2. Leasing, how and by whom executed.
3. When and by whom leases may be made of the estate.
4. What notice before sale of freehold.

Section.

5. Who may convey trust estates and cancel mortgages.
6. Who shall execute conveyances.
7. Whose and what acts binding.
8. For what amount special order for sale may be made

1. Where any person by a Commission in nature of a Writ de lunatico inquirendo under the Great Seal, is found lunatic, or of unsound mind, and incapable of managing his affairs, the Governor may, by an order in the Court of Chancery, on the

petition of any committee of such person, or any of his creditors, direct the freehold and leasehold estate of such person to be sold, or incumbered by way of mortgage or otherwise, as shall be deemed most expedient for raising money to pay debts, or for performing the contracts of such person, with the costs and charges of the same, and of any sale, mortgage, or incumbrance, and further direct the Committee to execute, in the name of such person, conveyances of the said estates, and do whatever may be necessary to effect the same.

2. Where such person may be seized of freehold lands for his natural life, or of some other estate, with power of leasing for life, or for years, such power may be executed by the said Committee under the direction of the Governor.

3. Where such person may be seized of freehold estates in fee, or in tail, or any absolute interest in leasehold estates, and it may be for his benefit that leases or under leases should be made of such estates for terms of years, and especially to encourage the erection of, or repairing buildings thereon, or otherwise improving the same, the Governor may order the Committee to make leases of any part or the whole of such estate, according to the interest of the lunatic therein, subject to such rents and covenants as may be directed.

4. No absolute sale of the freehold of any such person shall be made, without at least thirty days notice of the time and place of such sale, by advertisement in one or more of the Newspapers published where the land may be, or if there be none published there, then in the Royal Gazette ; the surplus (if any) after answering the purpose of sale, shall be applied by the Committee, under the direction of the Governor, for the support of such lunatic and his family.

5. Any such person, or Committee in his name, by the order of the Governor, on the petition of any party beneficially interested in the lands seized or possessed by such person, or any interest therein, or any money secured thereon, and on hearing the parties concerned, may convey any such lands, or assign or discharge any such mortgage, as by such order may be directed.

6. Every such person, being a trustee or mortgagee, or his Committee, may be compelled under like order to make such conveyances and discharges, as trustees or mortgagees of sound mind may be compelled to make.

7. Every act done by any Committee under the authority of this Chapter, shall be valid and binding against any such person, and all persons claiming under him.

8. The Governor, on the application by petition of any person interested in the affairs of any insane person, and on proof by affidavit of the interest, and of the insanity of the person for whom he applies, may, in any case where the estate real or personal, or both together, do not exceed the sum of five hundred pounds, make an order in Chancery requiring the sale of such estate, or the collection of any moneys due such insane person, in the name of the applicant, or otherwise, and that the proceeds shall be paid and applied in such manner and on such conditions as in the said order may be prescribed.

CHAPTER 89.

OF DANGEROUS LUNATICS.

Section.

- 1. When and how lunatics may be apprehended.
- 2. Who shall receive lunatic.

Section.

- 3. Expenses, how paid, &c.
- 4. Form of Warrants.
- 5. Royal prerogative.

Schedule.

1. Any person so disordered in his senses as to be dangerous when at large, may, on evidence of the fact, be apprehended and conveyed to the Provincial Lunatic Asylum, on a warrant issued by any two Justices of any County, directed to any Constable of any County, although the Justices or Constable may not reside in the County where the Asylum is.

2. The Commissioners of the Asylum, and the persons in charge of the same, shall receive and keep such person and deal with him as with other inmates of the Asylum.

3. The reasonable expenses of such apprehension and removal, being verified on oath before any two Justices of the County where the insane person was apprehended, shall be paid in the first instance out of the contingent funds of such County, by order of the General or any Special Sessions; and the said expenses, whether before or after such payment, with all costs, may be levied by warrant of any two Justices, on any goods or chattels of the insane person wherever found, and paid to reimburse the said Sessions, rendering the overplus to the Commissioners of the Asylum for the cure and support of such insane person, or to abide the order of the Chancellor.

4. The Warrants mentioned in Sections 1 and 3 of this Chapter, shall respectively be according to the forms in the Schedule.

5. This Chapter shall not abridge the prerogative of the Queen, or of the Chancellor, concerning such insane persons, nor prevent any friend from taking him under his care.

SCHEDULE.

Warrant to apprehend an insane person.

To any Constable in the County of .

You are hereby required to apprehend A. B. an insane person, and convey him to the Provincial Lunatic Asylum, there to be kept and dealt with as other inmates of such Asylum, and for so doing this shall be your sufficient Warrant. Dated the day of 18 .

C. D. } Justices for the
E. F. } County of .

Warrant to levy expenses of removal.

You are hereby required to levy the sum of being expenses of removing A. B. an insane person, from the County of [*being the place at which he may have been apprehended*] to the Provincial Lunatic Asylum, of the goods and chattels of the said A. B. and the same to sell at public auction, after fourteen days notice, to be posted up in three or more of the most public places where such property may be found; and the money arising therefrom to return to us, after deducting the expenses of the sale, together with this Warrant, and your doings thereon. Dated the day of 18 .

C. D. } Justices for the
E. F. } County of .

CHAPTER 90.

OF THE MANAGEMENT OF THE PROVINCIAL LUNATIC ASYLUM.

Section.

1. Asylum, in whom vested.
2. Management.
3. Regulations.
4. When and before whom copies thereof shall be laid.
5. Officers and servants, appointment.
6. Commissioners not to receive compensation, &c.

Section.

7. Visitations of Commissioners.
8. Annual statements and accounts.
9. Medical officer, and servants, from what exempt.
10. When Bond to be given for support of lunatic, &c.

Schedule.

1. When the Governor shall have paid the sum of two thousand pounds to the Mayor, Aldermen, and Commonalty of the City of Saint John, and the Trustees of the said Corporation, and a certificate of such payment shall have been executed under the seal of the said Corporation, and the hand of the Chairman of such Trustees, acknowledged or proved and registered as in the case of deeds, a certain tract of land, for which the said sum of two thousand pounds was the purchase money, shall be vested in the Queen for the purposes of this Chapter, and the same, with the buildings thereon, shall continue to be known by the name of "The Provincial Lunatic Asylum;" which tract of land is described as follows:—All that tract or parcel of land and premises situate in the Parish of Lancaster, in the City and County of Saint John, consisting of the lots numbered and distinguished in the plan of lots laid out by the said Mayor, Aldermen, and Commonalty of the said City, on file in the office of the Common Clerk of the City, by the numbers (1 and 2,) one and two, being butted and bounded as follows, to wit: Beginning at the northwest corner of land laid out on the River Saint John, included in the ten acre grant (so called); thence following the westerly line of the said lands south fifty one degrees west to the old Manawagonish road; thence running the course of the said old Manawagonish road to the easterly line of a road reserved leading to lot number (3) three; thence following the easterly line of the said reserved road north thirty six degrees west, about twenty two chains, to the rear line of the said lot number (3) three; thence on the rear line of the said lot number (3) three south forty eight degrees east to the River Saint John; thence following the course of the said River Saint John down stream to the place of beginning, containing forty acres more or less.

2. The management of the Asylum shall be in not less than five nor more than nine Commissioners, to be appointed by the Governor in Council, and to be sworn to the faithful discharge of their duty before a Justice; the Commissioners shall meet from time to time at such place in the City and County of Saint John as they may establish, and by a majority of votes of those present, manage all the affairs of the Asylum, any three of whom shall be a quorum for business, and the senior Commissioner present shall be Chairman of any meeting; the

senior Commissioner, or in case of his sickness or absence, any two of the Commissioners, may summon a meeting for the transaction of business, by causing a notice of the time and place thereof to be left at the usual place of abode of each of the Commissioners.

3. The Commissioners may make regulations for the management of the Asylum, and for fixing the conditions of admission and discharge of patients, a copy of which shall be transmitted by them to the Governor, who may in Council confirm, annul, or amend any of such regulations.

4. The Governor shall annually lay before the Legislature a copy of all regulations then in force.

5. The Commissioners may at any time appoint any officer or servant of the Asylum; they shall furnish provisions, materials, and such other necessaries as may be required for the same, and enforce all regulations made for the government thereof; but no officer or servant shall be appointed unless at a meeting where at least five Commissioners are present; and they shall keep in a book a fair and full record of all their proceedings, to be open at all times to the inspection of the Governor and Executive Council, and to such persons as may be appointed by either House of the Legislature to examine the same.

6. None of the Commissioners shall receive any compensation for his services, nor shall he hold any office or employment connected with the Asylum from which any emolument can be derived, nor shall he be interested as security or otherwise in any contract for or on account of the Asylum.

7. There shall be a monthly visitation of the Asylum by one or more of the Commissioners, a semi-annual by a majority, and an annual by the whole; and a report of which in writing shall be transmitted by the Secretary to the Governor.

8. The Commissioners shall before the first of January in every year cause a complete statement of the condition of the Asylum, with a detailed account of all receipts and expenditures on account of the same, to be transmitted in triplicate to the Governor, for his information and that of the Legislature; which shall be certified by the Commissioners to be correct, according to the best of their knowledge and belief.

9. The Commissioners, Medical, and other officers, and

servants employed in the Asylum, shall be exempt from Militia duty, from serving on Juries, and from Parish or County offices.

10. When any insane person shall be received in the Asylum as a boarder, for cure, the person sending him shall execute a Bond to the Queen, with security satisfactory to any two of the Commissioners, according to the form in the Schedule (A), which Bond may as often as necessary be sued before two Justices and recovered agreeably to the Chapter of Summary Convictions before Justices, and the money obtained thereon shall be paid to the said Commissioners for the support and care of the insane person.

SCHEDULE.

(A)

We A. B. and C. D. are jointly and severally bound to the Queen in pounds, to be paid to Her Majesty. Sealed and dated, &c.

The condition of this Bond is, that if the above bound A. B. and C. D. shall pay to the Commissioners of the Provincial Lunatic Asylum, for the board, care, and medical attendance of , an insane person, during the time he may be kept therein, this obligation shall be void, otherwise in force.

Sealed and delivered } in presence of }	A. B.	[L. S.]
	C. D.	[L. S.]

TITLE XVI.

OF THE PROVINCIAL PENITENTIARY.

CHAPTER 91.

Section.

1. Penitentiary, in whom vested.
2. Land re-vested in Justices.
3. Annual Grant.
4. Appointment of Commissioners.
5. Meetings of Commissioners.
6. Visitors appointed.
7. Keeper and other officers, appointment.
8. Annual statement and account on oath to be rendered,
9. General regulations.
10. Commissioners' regulations.
11. To be laid before Legislature.
12. Justices may commit vagabonds, &c.
13. Prisoners, &c., may be removed and committed from other gaols and Counties.

Section.

14. What persons may be imprisoned.
15. Authority to Sheriff, &c.
16. Expenses, how paid.
17. Powers, &c., of keeper and other officers.
18. Escape, offence.
19. Rescue, wilfully permitting escape, &c., offence; negligent do, offence.
20. Trials for escapes, where; indictment, evidence.
21. Punishment of felony under this Chapter.
22. Punishment for introducing, &c., forbidden articles.
23. Protection of Commissioners and other officers.

1. The tract of land situate in the Parish of Simonds, in the County of Saint John, bounded as follows:—Beginning at a point on the eastern side of the road leading from Blakslee's farm to Little River, where it is intersected by the southwardly boundary line of a lot of land there formerly owned by John Cummings; thence running along the said boundary line north seventy eight degrees east by the magnet, fifty chains and thirty four links, to a stake; thence at right angles south twelve degrees east, six chains and ninety four links, to another stake; thence south seventy eight degrees west, parallel with the first named course, fifty eight chains and fifty links, to the eastern line of the road aforesaid; and thence northwardly on the said eastern line of said road, following the courses thereof, to the place of beginning; together with all the erections and enclosures thereon, or on any part thereof, and appurtenances thereunto belonging, is hereby vested in the Queen for ever, for the purposes of a Provincial Penitentiary, and the same is hereby declared to be, and shall be known as “The Provincial Penitentiary.”

2. The small angular piece of land containing about one tenth of an acre, included within the bounds of the lot of land formerly set apart by the Justices of the City and County of Saint John for a House of Correction, and lying southwardly of the southern boundary line of the land mentioned in the preceding Section, is declared to be revested in the said Justices.

3. The Governor in Council may, upon application by the Board of Commissioners hereinafter appointed, issue his Warrant upon the Treasury in their favour for a sum not exceeding three hundred pounds annually, to defray the expense of food for the prisoners, and of materials for employing them at labour.

4. The management of the said Penitentiary shall be in a Board of not less than five nor more than nine Commissioners, of whom one shall be the Mayor of the City, and the others shall be appointed by the Governor in Council, and shall include a Justice of the City and County of Saint John, who shall be sworn before any Justice to the faithful discharge of their duties, and shall not receive any compensation for their services, or hold any office connected with the Penitentiary from which any salary or compensation can be derived, or be

interested as security or otherwise in any contract on account thereof.

5. The Commissioners shall meet from time to time in the said City and County, and by a majority of votes of those present at any appointed meeting, shall manage all the business of the Penitentiary ; any three of the Commissioners shall form a Board for the transaction of business, except as hereinafter provided ; the senior Commissioner when present, and if absent the Mayor, or if both be absent, the senior Commissioner present, shall be Chairman ; and the senior Commissioner first mentioned, or if absent, the Mayor, or if both absent, any two of the Commissioners may, as often as necessary, summon a meeting of the Board for the transaction of business, by causing due notice of the time and place to be left at the abode of each Commissioner, and the Board shall, in a book to be provided for the purpose, cause a record to be kept of all their proceedings.

6. The Commissioners shall nominate two or more of their number Visitors of the Penitentiary, of whom one at least shall personally inspect the same once in every month, and oftener if necessary, and examine the state of the buildings to ascertain if any repairs or alterations be required ; strict regard being had to the separation, classification, inspection, instruction, employment, or hard labour of the prisoners, and enquire into the conduct of the officers, and the treatment, behaviour, and condition of the prisoners, the means of setting them to work, the amount of their earnings, the expenses attending the establishment, and any abuses therein ; and at least once every three months the visiting Commissioner shall make a report in writing to the Board on all these subjects of enquiry, and all information received respecting the same, who shall take the same into consideration and act thereon as occasion may require ; any other of the Commissioners may visit and examine the Penitentiary, and if he discover any abuses therein, he shall report them in writing to the Board at the next meeting.

7. The Commissioners, as often as necessary, shall appoint a Keeper, Surgeon, Chaplain, and Matron, with other subordinate officers, and furnish provisions, materials, and other things necessary, either for the maintenance or due employment of the prisoners, and shall enforce the provisions of this

Chapter, together with the regulations already made, or which from time to time may be made under the same, for the management of the Penitentiary ; but no appointment to or removal from any such office shall be made by any meeting of the Board at which less than five Commissioners shall be present.

8. The Commissioners shall annually, before the first day of January, cause a complete statement of the condition of the Penitentiary, and all the persons therein, the nature of the several employments during the year, also a detailed account of all receipts and expenditures on account thereof, and of the proceeds of any labour performed by the prisoners, (which shall be applied to the maintenance of the Penitentiary) to be transmitted in duplicate to the Governor, for the information of the Legislature ; which statement and account shall be verified by the oath of at least one Commissioner, according to the best of his belief.

9. The following Regulations shall be observed in the said Penitentiary, so far as applicable to the several classes of prisoners :—

First.—The keeper and matron shall reside in the Penitentiary, and the matron shall superintend the female prisoners.

Second.—The keeper shall not be an under sheriff or a bailiff, or concerned in any other occupation, neither shall he, directly or indirectly, have any interest in any contract for the supply of the Penitentiary, or sell any prisoner any article whatever.

Third.—The keeper shall, if practicable, visit every ward, see every prisoner, and inspect every cell, once at least in every twenty four hours ; and when he or any other officer shall visit the female prisoners, he shall be accompanied by the matron, or in case of her unavoidable absence, by some other female officer.

Fourth.—The keeper shall keep a Journal in which he shall record all punishments inflicted by his own or the visiting Commissioner's authority, the day of punishing, and all other occurrences within the house, which may at any time be directed by the regulations ; and if he do not visit and inspect the wards, cells, and prisoners, as above required, he shall state the cause thereof in his Journal, which shall be open to the inspection of the Commissioners.

Fifth.—The male and female prisoners shall be confined in separate parts of the Penitentiary, so that they may be prevented holding any intercourse with each other.

Sixth.—Due provision shall be made for the enforcement of hard labour, and if the prisoners require instruction therein proper persons may be appointed to impart it.

Seventh.—Every prisoner not prevented by sickness shall be employed as many hours in every day, not exceeding nine, exclusive of the time allowed for meals, as may be directed by regulations made under this Chapter, except on Sunday, Christmas, Good Friday, and other days appointed by authority for fasting or thanksgiving.

Eighth.—Every prisoner shall be allowed a sufficient quantity of plain wholesome food, to be regulated by the Commissioners, regard being had to the nature of the labour performed by the prisoners, so that the allowance of food may be duly apportioned thereto, and for such prisoners as are unable to work, the Commissioners may order such an allowance as they think necessary. Prisoners under the care of the Surgeon shall be allowed such diet as he may direct.

Ninth.—Every prisoner shall be provided with suitable bedding, and every male prisoner with a separate bed, hammock, or cot, either in a separate cell or in a cell with not less than two other male prisoners.

Tenth.—All prisoners shall be allowed as much air and exercise, not less than two hours a day, as may be deemed proper for the preservation of their health.

Eleventh.—Prayers shall be read or said to the prisoners when assembled for instruction, by the chaplain, the keeper, or some other person, as by regulation may be directed, and portions of the Scriptures shall also be read by the chaplain, or such other person.

Twelfth.—Prisoners shall attend Divine Service on Sundays, and all other days when it may be performed, unless prevented by illness, or other reasonable cause, to be allowed by the keeper, or unless their attendance be dispensed with by a visiting Commissioner.

Thirteenth.—No prisoner shall be employed as turnkey, assistant, wardsman, yardsman, overseer, monitor, or school-master, or in the discipline of the Penitentiary, or in the service

of any officer thereof, or in the service or instruction of any other prisoner.

Fourteenth.—The walls and enterings of the wards, cells, rooms, and passages, used by the prisoners throughout the building, shall be scraped and lime washed at least once a year; and the day rooms, work rooms, passages, and sleeping cells, washed and cleansed once a week, or oftener if required.

Fifteenth.—The wards, cells, and yards allotted to female prisoners, shall be secured by locks different from those used in other parts of the Penitentiary, and the keys thereof shall be in the custody of the matron.

Sixteenth.—No tap shall be kept in the Penitentiary, nor any kind of spirituous liquors admitted for the use of the prisoners, under any pretence whatever, except by written order of the surgeon, nor any alcoholic liquors, except the same may be allowed by the regulations.

Seventeenth.—Every order of the surgeon for the admission of such liquors, tobacco, or other prohibited articles, shall be in writing, stating the quantity, and by whom to be used; which order, together with an account of the state of every sick prisoner, the name of his disease, and a description of the treatment ordered for him, the surgeon shall enter in a Journal.

Eighteenth.—No gaming shall be permitted; and the keeper shall seize and destroy all dice, cards, and other instruments of gaming.

Nineteenth.—No money shall be taken from any prisoner at any time, on any pretence whatever, or from any person on his account; but the keeper, under the direction of the Commissioners, shall take charge of any money or effects of every prisoner for safe keeping, to be duly returned at the expiration of his imprisonment.

Twentieth.—On the death of any prisoner, the keeper shall forthwith notify one of the visiting Commissioners, the Coroner of the district, and when practicable, the nearest relative of the deceased.

Twenty first.—Whenever the term of any prisoner's punishment shall expire on a Sunday, he shall be discharged on the Saturday preceding.

10. The Commissioners may at any time make such further regulations for the government of the Penitentiary, its officers

and prisoners, as they may think expedient, and shall forthwith transmit a copy thereof to the Governor, who, in Council, may confirm, amend, add to, or annul the same, and to such as may be confirmed, subscribe a certificate that they are proper to be enforced; and all regulations so made and certified, shall be binding upon all persons; printed copies of all the regulations shall be kept posted up in some convenient part of the respective buildings allotted to the males and females, and no regulations shall be of any force until duly certified as above by the Governor.

11. Copies of all such regulations shall be laid before the Legislative Council and House of Assembly by the Governor, within twenty days after they shall have been so made, if the Legislature be then in Session, or if not, within twenty days after the commencement of its next Session.

12. Any Justice of the City and County of Saint John may arrest, or cause to be arrested, any vagabond, suspicious, or disorderly person, within the said City and County, and commit them to the said Penitentiary for any term not exceeding forty days, with hard labour.

13. The Justices in any General or Special Sessions may cause all persons sentenced to imprisonment with hard labour, and all vagabonds, and other suspicious or disorderly persons, at any time in confinement in the gaol or work house of the County, under any conviction, to be removed therefrom and conveyed to the Penitentiary, and may make such orders for their conveyance, and the necessary expenses thereof, as to such Justices may seem meet; and the keeper shall forthwith receive such persons into his custody, and keep them at hard labour, until their respective terms of imprisonment expire.

14. Whenever by any law, authority is or may be given to imprison any person in any house of correction or goal, with hard labour, or in the Penitentiary, such imprisonment may be in the said Penitentiary with hard labour.

15. The Sheriff or Deputy Sheriff of any County, or any constable or other officer by his direction, may convey to the Penitentiary any offender sentenced or liable to be imprisoned therein, and deliver him to the keeper there, without any further warrant than a copy of the sentence taken from the minutes of the Court before whom he shall have been tried,

and certified by a Judge, or by the Clerk or acting Clerk of such Court.

16. The Sheriff or person employed to convey any offender to the Penitentiary, may secure and convey him in and through any County; and all reasonable expenses incurred shall, if the conviction have been before any Court other than the Assizes, be paid by the County where the same shall have taken place, being first allowed by the Justices, who shall order the Treasurer of such County to pay the same; and if the conviction have been before the Assizes, the expenses shall be ascertained by the Justices of the proper County at any General or Special Sessions, and after being duly audited by the Provincial Auditor shall, if correct, be paid from the Provincial Treasury by Warrant thereupon drawn under the hand and seal of the Governor.

17. The keeper of the Penitentiary, or person in charge of the prisoners therein, shall have the same power over them as are incident to the office of sheriff or gaoler, and for abuse of the same or other misbehaviour, or negligence in the discharge of his office, shall be liable to the same punishment as a gaoler now is by law; and every under keeper, turnkey, and person having charge of the prisoners, shall, within the City and County of Saint John, have the same powers, advantages, and immunities, besides those of their office, as are by law given to any duly appointed constable.

18. If any offender, while being conveyed to the said Penitentiary, shall escape from the person having him lawfully in custody, or being confined therein shall break prison, he shall be guilty of felony.

19. If any person shall rescue any offender sentenced to be imprisoned in the said Penitentiary, while being conveyed thereto, or imprisoned therein shall assist in such rescue, or by supplying arms, tools, or instruments of disguise, or by any other means shall assist any such offender in any prison breach, escape, or attempt to escape, though unsuccessful, or shall attempt to rescue any such offender, or assist in such attempt, though no rescue be made, or if any person having the custody of such offender shall wilfully permit him to escape, he shall be guilty of felony; and if any person having such custody shall negligently permit any such offender to escape, he shall be

guilty of a misdemeanor, and be liable to fine or imprisonment, or both, at the discretion of the Court.

20. Every offender while being conveyed to the Penitentiary, who shall escape or be rescued, or who shall break prison or be rescued therefrom, may be tried either in the County where such offence shall have been committed, or in that where he shall have been apprehended; in any prosecution for any such offence, either against the principal offender, or against any other person assisting or concerned therein, the custody of such offender may be laid in the indictment as being in the keeper of the Penitentiary, and a certificate of the conviction and sentence under which such offender was imprisoned, or about to be imprisoned, given by the Clerk of the Court in which it was made, shall, together with proof of the identity of the offender, be sufficient evidence on the trial of the nature and fact of his conviction, and of the specific period of confinement to which he was sentenced.

21. Every person convicted of felony under this Chapter, shall be imprisoned in the said Penitentiary for any term not exceeding seven years, nor less than one year, in the discretion of the Court.

22. If any person shall introduce or attempt to introduce into the said Penitentiary, any letters, liquor, tobacco, or other prohibited article, he may be apprehended by any other person and carried before any Justice for the City and County of Saint John, who shall hear and determine the case in a summary way, and if he lawfully convict such of the above offence, he shall forthwith commit the offender to the Penitentiary for a term not exceeding one month, with hard labour, unless he forthwith pay such sum, not exceeding five pounds nor less than one pound, as the Justice may impose, the same to be paid to the Commissioners for the use of the Penitentiary.

23. The provisions made by any law of this Province for the protection of Justices and Constables in the execution of their duty, shall extend to the Commissioners of the Penitentiary, the keeper, and officers thereof; and any action or other proceeding to be instituted against any of them, or against any other person for any thing done in pursuance of this Chapter, shall be laid and tried in the County in which, and be commenced within three months after the act, committed; notice

of action and of the cause thereof shall be given in writing to the party complained of, at least one month before the commencement of the action. The defendant may plead the general issue, and give the special matter in evidence at the trial. No plaintiff in any such action shall recover, if sufficient amends shall have been tendered before, or a sufficient sum of money paid into Court after its commencement, by or on behalf of the defendant. If judgment shall be given against the plaintiff, the defendant shall recover his full costs; and if a verdict be given for the plaintiff in any such action, he shall not have costs, unless the Judge before whom the trial shall have taken place certify his approbation of the action and the verdict therein.

TITLE XVII.

OF THE REGULATION OF TRADE IN CERTAIN CASES.

CHAPTER 92.

OF THE REGULATION OF SALES OF LIME.

- | Section. | Section. |
|--|---|
| 1. Lime hogshead, what to contain, &c, | 2. Shipping lime for exportation contrary
penalty. |

1. Every hogshead made for the purpose of carrying lime shall contain at least one hundred gallons, and every half hogshead at least fifty gallons, with the name of the manufacturer branded on the head; and if any person shall make any hogshead or half hogshead of a smaller size, or shall neglect to brand the same before the lime is put in, he shall for every offence forfeit the sum of five shillings.

2. If any person shall ship for exportation on board of any vessel, or sell any lime in hogsheads or half hogsheads of a smaller size, or not branded, such person and the master of the vessel shall each forfeit the sum of five shillings for every hogshead or half hogshead so sold or shipped; but lime may be packed for sale or exportation in casks of a smaller size, if their contents have been ascertained by a sworn gauger, and marked thereon.

CHAPTER 93.

OF THE MEASUREMENT OF FIREWOOD AND BARK.

Section.

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|--|---------------|
| 1. Mode of measuring firewood and bark. | Section. |
| 2. Regulation of vehicles for carrying same. | 3. Penalties. |

1. All Firewood and Bark when bought or sold by measurement, shall be measured by the cord, which shall be eight feet in length, four feet in breadth, and four feet four inches in height ; or if measured in a vehicle, at the rate of one quarter of a cord to each load, such load shall measure four feet in length, two feet and nine inches on an average in breadth, and three feet and three inches in height.

2. Every vehicle used for the measurement and carriage aforesaid, shall be provided with stakes on each side, placed so as to leave two feet eight inches in width between the foremost stakes, and two feet ten inches in width between the two hindmost stakes ; such stakes shall be three feet three inches in height from the floor of such vehicle, and no more, shouldered with a band of iron round the part which enters the mortice, and the mortice cased with iron ; within two feet nine inches from the floor of such vehicle shall be an iron chain across the same, from one stake to the opposite one, to prevent their spreading. And such wood or bark shall be well stowed, and no higher than the tops of the stakes ; and the upper surface of the wood or bark shall be level.

3. If any such vehicle shall not be in all respects according to the above requirements, or if firewood or bark shall be placed or measured on the same otherwise than is herein described, the owner or driver of such vehicle shall, for every time the same shall be so used, forfeit the sum of five shillings, to be appropriated one half to the Overseers of the Poor where the offence is committed, and the other half to the prosecutor.

CHAPTER 94.

OF THE INSPECTION OF FLOUR AND MEAL.

Section.

- | | |
|--|---|
| 1. Appointment of Inspectors, &c., by whom. | 5. Power of. |
| 2. Bonds for performance of their duty ;
oath. | 6. Compensation to. |
| 3. Wheat Flour, &c., when to be inspected
and marked. | 7. Penalty for breach of duty. |
| 4. Duties of Inspectors. | 8. Corporation of Saint John and other
places, how affected. |

1. The Governor in Council may appoint at every Port of entry in this Province, where necessary, one fit person to be Inspector and Weigher of Flour and Meal, who may appoint a Deputy, and shall be liable for his defaults, and take security for the faithful discharge of his duties.

2. Every Inspector and Weigher before entering upon his duties shall give security by Bond with two sureties to the Queen, for the faithful performance of such duties by himself or deputies, and for making good any damage sustained by any person in consequence of the neglect, misconduct, or default of such Inspector or deputies, and shall also take the following oath before a Justice :—

‘ I A. B. do swear that I will faithfully, according to the best of my skill, execute the office of Inspector and Weigher of Flour and Meal, according to law.’

And each Deputy before acting as such, shall be in like manner sworn to the faithful performance of his duty.

3. All wheat flour, rye flour, corn meal, and buckwheat meal, imported or manufactured in the Province, and brought into market for sale in barrels or half barrels, shall immediately upon being landed, or so brought in, and before being sold, or offered for sale, or shipped, or taken out of any warehouse for consumption, or sent from the place where the same shall have been so landed, be inspected and weighed by the Inspector and Weigher of such Port, or his Deputy ; and each barrel shall contain not less than one hundred and ninety six pounds net weight, and each half barrel not less than ninety eight pounds net weight, of flour or meal, which, if not good, sweet, and wholesome, shall be marked and denominated “ Bad;” but this Section shall not apply to flour or meal deposited in a warehouse, and directly shipped therefrom for exportation.

4. The Inspectors and Weighers, or their Deputies, upon the landing of any flour or meal in barrels or half barrels as aforesaid, shall inspect and weigh the same, which shall be of at least the quantity aforesaid, and if deficient, shall allow the full weight to be supplied with the like quality of flour or meal, and thereupon shall brand with a branding iron each barrel or half barrel thereof, being at least of such quantity, with the initials of his christian and surname, or mark the same thereon with black or red paint, with the net weight of

each barrel or half barrel, and following the same with the letter "S" for superfine, "F" for fine, "M" for middlings, or "Bad" for bad. Every barrel or half barrel of such flour or meal which, after landing or being brought into the market as aforesaid, shall be sold or offered for sale, removed, or shipped for consumption in this Province, contrary to the provisions of this Chapter, shall be seized by any Inspector or his Deputy, or by any seizing officer of the Treasury, and if not exceeding five pounds in value shall be declared by two Justices forfeited to the Queen; if the value shall exceed five pounds, the same may be prosecuted to condemnation in any Court of Record. Any person offending against the provisions of this Chapter shall be liable to pay seven shillings and six pence for each offence, and the sum of six pence per pound for every pound weight deficient; one half the net proceeds of the seizures or penalties to be paid to the person who shall seize or prosecute the same, and the residue to the Overseers of the Poor of the Parish where the offence has been committed. Any person selling the same against the provisions of this Chapter, shall be liable to all damages in consequence thereof.

5. The Inspector or his Deputy may fix a tare for the said barrels or half barrels to the best of his judgment.

6. The Inspector or his Deputy shall be paid for inspecting, weighing, and marking, as follows:—For each barrel of flour or meal, two pence; for each half barrel of flour or meal, one penny; to be paid by the owner, seller, importer, or consignee thereof.

7. If any Inspector or his Deputy shall inspect, weigh, brand, or mark any barrel or half barrel of flour or meal contrary to this Chapter, he shall forfeit twenty shillings for each offence.

8. Nothing in this Chapter shall interfere with the rights and privileges of the Corporation of the City of Saint John, or of the Municipal authorities of the County of Carleton, or shall extend to the Counties of Northumberland, Kent, Gloucester, Restigouche, and Charlotte.

CHAPTER 95.

OF WEIGHTS AND MEASURES.

Section.

1. What articles shall be sold by Avoirdupois, and what by Troy weight.
2. What shall constitute the yard.
3. How liquids shall be measured.
4. Dry measure, what.
5. Set of weights and measures, by whom procured.
6. Where deposited, &c.
7. Duplicates to be procured, by whom.
8. Power to prove duplicates, by whom appointed.
9. Set of weights and measures, where and by whom kept.
10. Duty of the Clerks of the Market, and power; penalty.
11. What weights disallowed.
12. What weights, &c. seized, by whom, and penalty.
13. Power of Assayer of weights, Saint John.
14. Weight of standard bushel.
15. Coal, how to be sold.
16. Penalties, how applied.

1. Articles sold by weight shall be sold by English avoirdupois weight, except gold, silver, platina, precious stones, and drugs, or compounds thereof when sold under a medical prescription, which shall be sold by English troy weight.

2. The yard shall be the unit of length, and all lineal and superficial measures founded thereon shall be regulated thereby.

3. The measure for all liquids shall be the gallon of two hundred and thirty one cubic inches.

4. The dry measure shall be the Winchester bushel of two thousand one hundred and fifty cubic inches and forty two hundredths of a cubic inch.

5. A complete and properly verified set of the aforesaid weights and measures shall be procured by the Governor, and shall constitute the standard by which all weights and measures shall be tried, proved, and stamped.

6. The standards shall be deposited in the Provincial Secretary's Office, who shall cause duplicates thereof to be made for each County.

7. Each Clerk of the Peace, at the expense of his County, shall procure from the Secretary a complete set of the duplicate weights and measures proved by the standards, and marked with a stamp kept by the Secretary for that purpose.

8. The Governor in Council shall appoint a competent person to prove all duplicates.

9. The Clerks of the Market, and where there are none, the Town Clerk, shall keep a complete set of weights and measures, which, when duly proved and marked by the Clerk of the Peace with a figure of the Crown and the letters "N. B." shall be held as standards.

10. The Clerk of the Market or of the Town, may enter all

places of business, and all ships and vessels, in their respective districts, in the day time, and examine all weighing apparatus, and all weights and measures therein; any person refusing admittance to them, or obstructing the examination, shall forfeit a sum not exceeding ten pounds.

11. Weights made of soft metal, or on which the same appears externally, shall not be stamped or used.

12. The Clerk of the Market or of the Town, shall seize as forfeited all imperfect weights, measures, and apparatus for weighing; the person from whom seized shall forfeit a sum not exceeding ten pounds.

13. The Assayer of weights and measures for the City of Saint John shall have the same powers as the Clerk of the Market or Town Clerk aforesaid.

14. The standard bushel of clean wheat or Indian corn shall be sixty pounds; of clean barley or buckwheat, fifty pounds; of clean rye, fifty six pounds; of clean oats, thirty six pounds; of clean timothy seed, forty pounds; of all other grains, fifty six pounds; of potatoes, and all edible roots, fifty six pounds.

15. Coals shall be sold by the ton weight of two thousand two hundred and forty pounds avoirdupois, and its subdivisions.

16. Penalties imposed by this Chapter shall be applied, one half to the party prosecuting, the other half to the Poor of the Parish where the offence may be committed.

CHAPTER 96.

OF THE SURVEY AND EXPORTATION OF LUMBER.

Section.

1. Lumber exported before survey, penalty.
2. Appointment of Surveyors, &c.
3. Duties of Surveyors. Disputes, how settled.
4. Surveyors neglecting duty, penalty.
5. Specification for merchantable square Timber.
6. For Saw Logs.
7. For Deals and Battens, &c.

Section.

8. When unmerchantable may be exported.
9. Regulations as to marking, fees, &c.
10. Fees, by whom payable, and proceedings when lumber unmerchantable.
11. Regulations as to lumber afloat proving unmerchantable.
12. Penalty for certain offences.
13. Limitation of action, and application of penalty.

1. No Lumber of the description hereinafter mentioned shall, until the survey thereof as herein required, be shipped for exportation, under a penalty for each offence not exceeding fifty pounds nor less than five pounds.

2. The first General Sessions in every year shall appoint in their respective Counties a sufficient number of fit persons to be Surveyors of lumber in such parts of their County as may be necessary ; each of whom shall execute a Bond to the Queen in the sum of one hundred pounds with two sureties, conditioned for the due performance of his duty, and shall take the following oath before the Clerk or a Justice of the Peace for the County, he administering the same without fee, that is to say :—

‘ I A. B. do swear that I will faithfully to the best of my ability discharge the duties of a Surveyor of lumber, and that I will give a true account of the number, dimensions, and measurement of all such lumber as may be submitted to my inspection, according to the best of my knowledge and skill, and that I will not survey any lumber in which I may have a direct or indirect interest beyond the fees of survey, and that I will not change any lumber that may be intrusted to me for the purpose of being surveyed.’

The Bond and affidavit to be filed in the said Clerk’s office, together with the private mark which the Surveyor shall adopt : the Clerk shall grant a certificate to every such Surveyor of his having filed the affidavit and bond, and shall furnish him with a copy of this Chapter at the expense of the Government ; and no such Surveyor shall be a pond keeper, or directly or indirectly a dealer in timber.

3. Any Surveyor may survey lumber in any part of the County in which he shall be appointed, and shall personally and carefully ascertain the qualities of the lumber submitted to his inspection, reject all such lumber as in his opinion may be contrary to the provisions of this Chapter, so far as can be then ascertained, and, when required, furnish the buyer and seller each with a true account in writing of the number, length, and dimensions of the pieces of lumber found to be merchantable ; if any dispute arise between the buyer or seller, and the Surveyor, the person requiring a resurvey and the Surveyor may each choose a disinterested Surveyor duly appointed under this Chapter, and the two Surveyors so chosen shall name a third ; or if the dispute arise between the buyer and seller, the person who shall have chosen the first Surveyor may choose one other Surveyor, and the other party two other disinterested.

and duly appointed Surveyors; and in either of the above cases the three Surveyors so chosen shall resurvey such lumber, and their decision, or the decision of any two of them, shall be final; and the person requiring such resurvey shall pay the expenses thereof in the first instance, but if the original survey be not confirmed, he may recover them from the first Surveyor; and in case of any such dispute, if the buyer, or seller, or the Surveyor, shall neglect or refuse, when called upon so to do, to name a Surveyor as above required, it shall be lawful for the other party to name two disinterested Surveyors, who shall choose a third, and proceed as above directed, and their decision, or the decision of any two of them, shall be final.

4. If any Surveyor pass any article of lumber contrary to the provisions of this Chapter, he shall be liable to any person injured thereby for all damages by him sustained, and for the following penalties, namely:—

For Every forty cubic feet of timber so passed, two shillings and six pence;

Every thousand superficial feet of plank, deals, boards, or scantling, five shillings;

Every thousand superficial feet of saw logs, two shillings and six pence;

Every spar, one shilling;

Every thousand shingles, two shillings and six pence;

Every thousand staves, five shillings; and

Every cord of lathwood, two shillings and six pence.

If any such Surveyor shall at any time wilfully change any lumber submitted to him for inspection or survey, he shall upon conviction thereof, forfeit a sum not exceeding fifty nor less than five pounds; and if any such Surveyor shall at any time be found guilty of wilful neglect or partiality in the execution of his duty, or of wilfully giving a false account of the lumber submitted to him for inspection or survey, the conviction for any such offence shall operate as a dismissal from office, and render him for ever incapable of re-appointment.

5. No square timber except red pine shall be less than ten inches square, nor shorter than sixteen feet; but white pine timber over sixteen inches square, and hardwood over twelve inches square, may be twelve feet; all which shall be squared and smoothly hewed, free from knotty tops, plugs,

rots, rotten or concave knots, decayed, sap, or worm holes, shall be square butted, the taper not to exceed one inch for every eighteen feet in length, the wane not to exceed one inch in each corner where the square is under sixteen inches, two inches where it is from sixteen to twenty inches, and three inches where it is above twenty inches ; in order to ascertain the contents of such timber, the Surveyor shall girt or measure the same at the middle of the stick ; and the difference of the squares between any two of the sides shall not exceed two inches ; no log shall have a sweep unless it have two straight sides, and such sweeps shall not exceed the rate of five inches to every forty feet in length ; but all pine timber over sixteen inches square, smoothly hewed, and free from the defects aforesaid, shall be deemed merchantable if over twelve feet long ; and in surveying round or sided timber, in order to determine the quantity in tons, the Surveyor shall allow the number of cubic feet which the stick will square.

6. In the survey of pine or spruce logs the following regulations shall be observed by the Surveyors :—Logs for the manufacture of deals shall not be less than twelve feet in length and eleven inches in diameter, shall have an allowance of from four to six inches in the lengths to permit the deals when sawed to be trimmed, shall be sound, free from bad shakes, auger or plug holes, crooked gum seams, ring or bowel shakes, rot, bad knots, and worm holes : all logs of twenty six feet long and upwards shall be measured in two lengths ; an adequate allowance shall be made by the Surveyor on all crooked logs, the diameter at the small end, exclusive of bark, shall be taken as the diameter for ascertaining the contents, and the Surveyor shall mark or scribe on every log surveyed by him the superficial contents thereof with his private mark, and the initials of the name of the purchaser. The contents shall be calculated by the following Table, viz :—

Inches		Lengths in feet.																				
Diameter		12	14	16	18	20	21	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50
11	60	70	80	90	100	105	110	120	142	154	164	176	186	198	208	220	231	242	252	264	286	
12	72	84	96	108	120	126	132	144	168	182	194	208	220	234	246	260	273	286	298	312	336	
13	84	98	112	126	140	147	154	168	196	212	226	242	256	273	287	303	318	333	347	364	392	
14	98	114	130	147	163	171	179	196	226	245	261	280	297	315	331	350	367	384	401	420	451	
15	112	131	150	168	187	196	205	224	259	280	299	320	336	360	379	400	419	439	458	480	515	
16	128	149	170	192	213	223	234	256	298	323	344	368	390	415	436	461	484	509	531	554	596	
17	149	174	198	223	248	261	275	298	346	374	398	427	452	481	506	534	562	590	613	642	690	
18	172	200	239	258	286	301	315	344	396	428	457	490	519	552	580	612	644	674	703	736	788	
19	196	228	261	294	326	343	359	392	453	490	523	561	594	631	663	701	736	771	804	842	903	
20	225	262	300	337	375	393	412	450	509	550	588	627	664	707	745	786	825	865	903	944	1003	
21	247	288	327	370	411	432	453	494	560	605	644	689	732	778	829	864	908	951	992	1038	1104	
22	272	317	362	408	453	476	498	544	614	653	698	738	784	833	888	948	995	1042	1088	1138	1208	
23	297	336	376	445	495	519	544	594	660	716	756	808	877	931	981	1035	1088	1138	1188	1242	1308	
24	324	380	432	486	540	569	594	648	730	788	840	898	952	1011	1065	1123	1181	1235	1289	1348	1430	

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7. All deals and battens for exportation shall be surveyed and classed according to their qualities, and on each deal and batten shall be marked with red chalk, in legible figures, No. 1, 2, or 3, as the case may be, and also the length, breadth, thickness, and denominational or standard dimensions of twelve, fourteen, sixteen, eighteen, twenty, twenty one, twenty two, twenty three, and twenty four feet long; the standard breadth of deals to be nine inches and eleven inches broad, thickness three inches, with an addition of one inch on the length, and not more than three eighths of an inch on the breadth, and not more than one quarter of an inch on the thickness, to be trimmed at both ends, contents to be in superficial feet of one inch: battens to be of the same length as deals, with the same addition in length, breadth, and thickness, trimmed at the ends, the standard breadth to be seven inches, and thickness three inches, and two and a half inches, to be of the same description in quality as deals: that first quality number one or merchantable spruce deals shall be square edged from the saw, with an addition of one inch on the length, to be trimmed square at each end, straight, smooth, and well sawed, free from rot and every description of bad knot, rotten, loose, or black knots, shakes, splits, sap stain, gum seam, and gum galls, plugs, worm holes, and auger holes, and shall not have more than three sound knots, not exceeding one inch in diameter, on any one surface and edge, on a twelve, nine, three deal, and not more than four sound knots of one inch in diameter in twelve, eleven, three deal, and for every additional two feet in length, one knot as before described in addition, allowing all the sound knots less than one inch; all clear deals of the aforesaid dimensions, not having more than three quarters of an inch wane on the diagonal on one edge of the deal, and free from dark sap, to be classed as number one or first quality.

Number one or first quality spruce battens to be of the dimensions hereinbefore mentioned, and to have the allowances and to be in all respects of the same quality, as number one deals.

Number two or second quality spruce deals shall be of the same dimensions as number one, with the addition of deals of ten feet in length, with trimming thickness, breadth, and allowances as in number one, free from rot, rotten knots, bad

shakes, rents or splits, auger holes, bad or large worm holes, allowing wane on the edge not more than three quarters of an inch at the widest part, and not to have more than three knots of one inch and a half in diameter on the surface and edges, which may contain the greatest number of knots, all smaller sized knots allowed as in the case of number one deals; all clear deals which may have wane exceeding three quarters and not exceeding one inch and a half on the diagonal on the edge, classed as number two or second quality.

Number two or second quality battens to be the same as number two deals, excepting that no wane shall be allowed, and the knots in proportion as in number two deals.

Number three or third quality spruce deals shall include all deals of ten feet in length and upwards, and nine inches and eleven inches in width, and three inches in thickness.

Number three or third quality battens shall include all battens of ten feet in length and upwards, seven inches in width, and three inches and two and one half inches in thickness; both deals and battens of the third quality shall be free from bad rots, splits, loose splinters, auger holes, and wane exceeding two inches on the diagonal on one edge.

All deals and battens not classed in the foregoing description shall be taken and deemed refuse, and marked 'R' in addition to the mark of contents.

All pine deals and battens to be of the same description in quality, and classified as spruce deals and battens, and marked 'P' in addition to the contents.

All pine and spruce deals and battens classed as number one, two, and three, shall be free from stub shot.

And all deals and battens not of the length and breadth hereinbefore described as the standard dimensions, but in all other respects equal in quality with number one, two, or three, shall be classed as number one, two, or three, as the case may be, non-dimension deals or battens.

First quality or merchantable pine and spruce boards and plank shall not be less than ten feet in length nor less than seven inches in breadth, and not less than seven-eighths of an inch in thickness for boards, and one and one half of an inch and two inches for plank, shall be square edged from the saw, free from rot, sap stain, bad knots of every description (allow-

ing two sound knots not over two and a quarter inches in diameter, and all knots under that size that are perfectly sound) rents and shakes, worm holes, gum seam and gall, auger holes, and to be of equal thickness on both edges from end to end, with an allowance of one half of the straight split to the length of two feet.

Second quality pine and spruce boards and plank shall be in size same as first quality, and in quality same as number two deals, excepting the wane, which shall not exceed two thirds the length of the board or plank.

All boards and planks not classed as number one or two shall be deemed refuse.

Clear boards—Pine may be sawed out of the round log, without edging (optional with the party manufacturing the same), to be free from rots, knots, rents, shakes, worm holes, auger holes, gum seam, and gum gall, the width for measurement to be taken at the centre, inside of and not including the wane and dark sap.

Masts shall not be less than three feet and one quarter in length to every inch in diameter, to be hewed smoothly, reduced sufficiently to show the wood free from sap on the centre of all the four sides at the partners, to be as small at the butt as at the partners, and of proportionate and full size at the top, to be straight, free from rot, ring shakes, butt rots, concave or rotten knots, large knots at the top, bark on the waness, auger holes, and other defects, to be square butted, the diameter for measurement to be taken one third from the butt, exclusive of sap.

Spars shall be of straight growth, free from large knots, rots, and other defects, to be of proportionate size at the top with the butt, to be square butted, and the diameter for measurement to be taken one third of the length from the butt, exclusive of bark, and to be four and one half feet in length for every inch of diameter where the spar exceeds nine inches diameter, and five at least for all spars under nine inches diameter.

Lathwood shall be of straight rift, free from bark, hearts, knots, and rots, to be measured by the cord of four feet high and eight feet long, and piled as close as it can be laid.

Pine shingles shall be eighteen inches long, not less than

four inches wide and three eighths of an inch thick at the butt, free from sap, rot, and worm holes, to be put up in bundles not less than twenty five tiers or courses of twenty inches wide, four of which bundles shall be reckoned a thousand.

Cedar shingles for exportation shall be twenty inches long and three eighths of an inch thick at the butt, the said thickness to be continued three fourths of the length and shaved from thence to the point; to be from four to four and a half inches in width, and the account shall be taken by tale of ten hundred to the thousand, and that all pine shingles manufactured in the same manner for exportation shall be subject to the like rules and regulations; the whole of which cedar and pine shingles for exportation to be free from the defects above mentioned relative to shingles.

Hogshead staves shall be forty two inches long, three fourths of an inch thick on the thinnest edge, and not exceeding one and one eighth inches thick on the back, and shall also be from three and one half to five and one half inches wide.

Barrel staves shall be thirty two inches long, half an inch thick on the thinnest edge, and not exceeding seven eighths of an inch thick on the back; the whole to be of good rift, free from twists, fairly split, and free from knot holes, rotten knots, worm holes, and shakes; and the account of all staves shall be taken by tale of twelve hundred to the thousand.

8. Nothing in this Chapter shall prevent the exportation of lumber of other qualities than merchantable, if it be actually shipped and marked as it passed examination.

9. Every Surveyor under this Chapter shall mark or score in large and legible figures or characters on one of the sides of each piece of timber inspected by him, near the butt end, his own mark, the length, the purchaser's mark, and the contents, and at the place of girting the same the girt thereof for measurement: masts and spars to be marked in the same manner, having instead of the contents, the diameter at the partners; and every such Surveyor for his skill and labour in surveying, marking, and resurveying, shall be entitled to demand and receive after the following rates:—

For Every ton of forty cubic feet of square timber,	£0	0	4
Every thousand feet of saw logs,	-	-	0 0 9
Every thousand feet of deals, plank, scantling,			11
or boards,	-	-	0 1 0

For Masts under 17 inches diameter,	-	-	£0	1	6
Over the same,	-	-	0	2	0
Spars under 9 inches, -	-	-	0	0	2
Over the same,	-	-	0	0	4
Lathwood, per cord,	-	-	0	1	3
Pine or cedar shingles, per thousand,	-	-	0	0	6
Hogshead staves, per thousand,	-	-	0	3	0
Barrel staves, per thousand, -	-	-	0	1	6

10. The rates aforesaid for the survey of merchantable lumber, shall be paid by the first buyer thereof after the survey, if it be purchased within four months thereafter, but if not, the Surveyor shall be paid by the person employing him, and the seller shall remove at his own expense whatever may prevent the Surveyor from ascertaining with facility the measurement, manufacture, or quality of any article of lumber, and when required, shall cause the same to be canted, but if he refuse or neglect to do so, the Surveyor or buyer may cause it to be done, and charge the seller with the necessary expense, which may be recovered in any Court of competent jurisdiction.

11. When any lumber measured afloat shall afterwards prove unmerchantable, the purchaser shall give the seller or his agent at least ten days notice to that effect, and if the same be not removed within the time of such notice, the purchaser shall call on the Surveyor who first measured such lumber, or upon some other Surveyor, who shall examine the same, and take an account of the marks and contents thereof, and the purchaser shall cause such lumber to be put in merchantable order, under the superintendence of such Surveyor, by having it overhauled, lined, hewed, sawed, or repaired, in any way that may be thought advisable by such Surveyor, and the purchaser may charge the seller with the expense thereof, and with any deficiency in such lumber, which shall be estimated and kept account of by such Surveyor; but no purchaser of any lumber, after having had the same in his possession more than twelve months, shall have the same repaired or resurveyed at the risk or expense of the seller. The seller of any lumber, if he reside more than twenty miles from the place of sale, shall at such sale appoint an agent, to be notified to the purchaser, to attend to such unmerchantable lumber; but the provisions of this Section shall not extend to pine and spruce saw logs.

12. If any person shall adopt or use the private mark of any Surveyor under this Chapter, by placing the same upon any piece of timber, scantling, mast, spar, or other article of lumber, or shall be guilty of plugging or wedging any timber, spars, or masts, for the purpose of covering thereby any defects in the same, or shall measure or survey any lumber intended for exportation, before filing the bond and affidavit required as aforesaid, he shall on conviction forfeit the sum of five pounds for each offence.

13. All prosecutions for penalties imposed by this Chapter shall be commenced within twelve months after the offence committed; and the penalties when recovered shall be paid, one half to the person who shall sue for the same, and the other half to the Overseers of the Poor of the Parish where the offence is committed, for the use of the Poor.

TITLE XVIII.

OF THE ESTABLISHMENT OF A BOARD OF HEALTH FOR THE CITY OF SAINT JOHN.

CHAPTER 97.

Section.

1. Establishment of.
2. Members of.
3. Quarantine laws, how enforced.
4. Entry of houses, &c., for what purpose.
5. Regulations as to intercourse between different places.

Section.

6. Duties as to appointments, &c.
7. Ditto, and annual Grant.
8. Removal of infected persons; penalty for resistance.
9. Recovery and application of penalties.

1. The Governor in Council may establish a Board of Health for the City and County of Saint John, or for any part thereof, and at any time dissolve or renew the same, or add to its numbers.

2. The Mayor and Recorder of the said City, with so many residents of the City and County as may be appointed by the Governor in Council, shall be members of such Board; the Mayor, or in his absence the Recorder, or in the absence of both, any other member nominated by the Board, shall be Chairman thereof. Every member of the Board, immediately after his appointment, shall be sworn to the faithful discharge of his duty before the Clerk of the Peace for the said City and

County, and shall sign the roll kept for that purpose ; any five members of the Board shall be a sufficient number to proceed to business ; the Board may appoint a Clerk, and the orders and regulations of the Board, signed by the Chairman and Clerk, shall be valid.

3. The Board may make regulations for the preservation of the public health, and prevention of disease within its jurisdiction, under penalties for the breach thereof, not in any case exceeding the sum of one hundred pounds, and enforce the quarantine laws relating to the said City and County.

4. The members of the Board, or other persons by them appointed, may enter into any house, building, yard, enclosure, or land not enclosed, within the jurisdiction of the Board, remove any noxious or offensive matter therefrom, cleanse, fumigate, or use any proper means for purifying the same, and cause any street or other passage way to be enclosed, and prevent all persons from entering therein.

5. The Board may regulate or prohibit the intercourse between the district under its jurisdiction, or any portion thereof, and any other part of the Province, and may cause any persons who violate its regulations or prohibitions to be apprehended, and conveyed to the vessel or place whence they last came, or elsewhere beyond the district for which the Board is appointed, or to an Hospital or other place within the same ; and may adopt prompt measures to prevent the spread of disease, or communication with any vessel, house, family, or place infected ; and may exercise such powers as in the opinion of the Board the circumstances of the case and the public good may require.

6. The Board may appoint a Superintendent of Partridge Island, and of the quarantine station there, and also a Physician to reside there ; may order any boat or vessel within its district to be removed to the quarantine ground, or other place of safety, and all persons or things landed therefrom to be apprehended or seized, and again put on board, and may cause such removal at the expense of the master, owner, or consignee of any such boat or vessel ; and no boat or vessel shall return, or person or thing be landed, without the written permission of the Board. Any putrid or dangerous matter or thing may be destroyed by order of the Board.

7. The Board may build or hire Hospitals, furnish the same, employ proper persons to attend the sick placed therein, do whatever is necessary with regard thereto, and provide for the interment of the dead; may appoint Committees of one or more of the members of the Board to execute its orders, which Committees may sue and be sued for any contract or engagement entered into by them in fulfilment of their duties; and in order to defray the expenses, the Governor in Council may grant a Warrant on the Provincial Treasurer for payment thereof, but for no larger amount in any one year than the sum of five hundred pounds, and no money shall be expended by the Board without the sanction of the Governor in Council.

8. The Board may within its jurisdiction remove to the Hospital, or other fit place, any infected or sick person, and keep him there until cured, or sufficiently recovered to discharge with safety; and if any person shall violate the orders of the Board, or resist, oppose, or obstruct any of its Committees, or any person acting in their aid, he shall be guilty of a misdemeanor, and be liable to a penalty not exceeding one hundred pounds, nor less than five pounds for such offence.

9. Prosecutions for the recovery of penalties shall be brought by and in the name of the Board of Health for the City and County of Saint John, (or as the case may be) and the offender, when the penalty exceeds twenty pounds, may be held to bail as in civil causes, by the order of a Judge of the Court where the action may be brought, and all the penalties when recovered, after deducting expenses, shall be paid to the Treasurer for the use of the Province.

TITLE XIX. OF CONTROVERTED ELECTIONS.

CHAPTER 98.

Section.

1. Time for considering Petition, by whom appointed. Notice.
2. Recognizance, when to be given.
3. Before whom entered into, justification, and when excused.
4. Lists to be delivered. What evidence admitted. Report of Committee. Costs.

Section.

5. Attendance of members, and number.
6. When members present, proceedings as to selecting Committee, &c.
7. Members, how excused. Nominees appointed, excuse, &c.
8. Committee not complete, result.
9. When completed, oath, &c.

Section.	Section.
10. Nominee drawn, how excused. Nominee not named, how selected.	19. Petition frivolous, &c., Committee to report, when.
11. Chairman of Committee, how chosen. Absence of members, how excused.	20. Costs, payable when, by Petitioner.
12. Duty of Chairman as to reporting absent members; punishment of. Quorum.	21. Costs, payable when, by opposer to petition.
13. Power of Committee as to witnesses, &c. Oath to witnesses. Effect of the determination of Committee.	22. Costs, by whom taxed, how recovered. Speaker's certificate, &c.
14. New Committee, when to be chosen.	23. Costs, how and when recovered proportionately by the party paying them.
15. Resolution of Committee. Report to House; power of House thereon.	24. Recognition escheated, when and how.
16. Disobedience, &c., to summons of Committee. Perjury. Penalty.	25. Prorogation, effect of on Select Committee.
17. When Committee may clear the room.	26. Proceedings when several petitions are taken into consideration in one day.
18. When a subscriber to petition may be examined.	27. Money recovered under recognition, when paid, and how disposed of. Schedule.

1. When a petition complaining of an undue election or return of a Member to serve in General Assembly, shall be presented to the House of Assembly, a day and hour shall be appointed by the House for consideration thereof, and the Speaker shall forthwith in writing notify all parties concerned, or their agents, commanding their attendance at the Bar of the House with Counsel at the time appointed; the House may alter the time, giving the like notice.

2. No proceedings shall be had upon any such petition, unless a petitioner shall within ten days after the presentation thereof, or such further time as shall be limited by the House, personally enter into the recognizance in the Schedule to this Chapter, and if at the expiration of the said ten days the recognizance shall not have been so entered into, or been received by the Speaker, he shall report the same to the House, and the order for considering the petition shall be discharged, unless upon matter specially stated and verified on oath, the House shall enlarge the time for entering into such recognizance; and if enlarged, the order may be postponed, but no petition shall be taken into consideration till after the recognizance shall have been entered into, and received by the Speaker.

3. The recognizance shall be entered into before the Speaker, or if taken twenty miles distant from Fredericton, before a Justice, and the sureties shall in all cases severally justify before the Speaker or Justice by affidavit, that they are severally worth double the sum for which they are respectively bound by such recognizance after payment of all their just debts, which affidavit may be dispensed with by the parties.

4. In every controverted election or return the parties shall, six days at least before the time appointed for considering the petition, cause to be delivered to the Clerk of the House, lists of the votes objected to, specifying the nature of the objections against the name of each voter; and no evidence shall be allowed before the select Committee against the validity of any vote upon any objection not specified in the list, and if no evidence be produced to sustain the objection, and the Committee be of opinion that it was frivolous and vexatious, they may report the same to the House, with their opinion on the other matters relating to the petition; and the aggrieved party may recover the costs and expenses incurred by reason thereof, which shall be ascertained and recovered as hereinafter provided.

5. Previously to reading the order of the day for considering the Petition, the House shall be called, and if there be less than twenty members present, the House shall forthwith adjourn to a particular hour the next day, when they shall proceed in like manner, and so from day to day till there be twenty members present at the reading of such order.

6. If after a call twenty members be present, the parties, by themselves, their counsel, or agents, shall be ordered to attend at the Bar; the doors of the House shall be locked, and no member shall enter into or depart therefrom, until the parties, their counsel, or agents, shall be directed to withdraw. When the doors are locked, the order of the day shall be read, and the names of the members of the House, written on distinct pieces of paper as near as may be of equal size, and rolled up in the same manner, shall be put in equal numbers into two boxes, placed on the table and shaken together; the Clerk, or his assistant, shall publicly draw out of the said boxes alternately the said pieces of paper, and deliver the same to the Speaker, who shall read them to the House, and so continue to do, until eleven names of the members then present be drawn.

7. If the name of any member be drawn who shall have voted at the election complained of, or who shall be a petitioner complaining of an undue election, or against whose return a petition shall be then pending, it shall be set aside; and if the name of a member of another Election Committee during the same Session be drawn, he may be excused; and the House

may also excuse any member from serving, if it appear to be attended with great detriment to him; and the drawing shall continue until the whole number of eleven members be complete, when the petitioner and sitting member shall then each name one from among the members then present to be added to those drawn, but either of the members so named may be set aside or excused for any of the same causes as those drawn, and another shall be nominated by his nominor, and so on until his nominee is admitted.

8. If at the time of the drawing the number of eleven members cannot be completed, the House shall proceed in the manner prescribed in Section 5 of this Chapter.

9. When eleven members shall have been so drawn, and nominees appointed, the doors shall be opened, and the House may proceed to any other business; the list of eleven members so drawn shall be reduced to five by the parties striking off alternately; and such reduced list, with the names of the nominees added thereto, shall be delivered to the House; and the said five members with the nominees, shall be sworn at the Table by the Clerk or his Assistant, well and truly to try the matters of the petition referred to them, and true judgment to give according to the evidence, and who, when sworn, shall be a select Committee to try and determine the merits of the said return or election, and shall meet at the time and place to be determined by the House.

10. When the name of any member shall be drawn, and either of the parties shall declare that he is intended to be a nominee, and he consent thereto, his name shall be set aside, and unless objected to for any of the causes hereinbefore mentioned, he shall serve as such nominee, and the name of another member shall be drawn to supply his place; if the parties shall not nominate a member then present, the name of one or two members, as the case may require, shall be drawn in like manner, and subject to like objections and excuses as members already drawn, who shall be added thereto, and shall be liable to be struck off in the same manner, leaving always the number of seven members for the select Committee.

11. The Committee shall on their meeting elect a chairman from among the members thereof who shall have been drawn, and in electing a new chairman on the death or necessary

absence of the chairman first elected, if the Committee be equally divided, the member whose name was first drawn in the House shall have the casting vote. No member of such Committee shall absent himself therefrom without the leave of, or excuse allowed by the House, or special cause shewn by affidavit. The Committee shall not sit until all the members not having such leave or excuse are met, and if they shall not all meet within one hour after the time to which the Committee shall have been adjourned, a further adjournment shall be made, and reported, with the cause thereof, to the House.

12. The chairman shall at the next meeting of the House report the name of any member absent therefrom without such leave or excuse, and such member shall be directed to attend the House at the next sitting thereof, and shall then be delivered into the custody of the Sergeant-at-Arms for such neglect, and otherwise punished or censured at the discretion of the House, unless he shall make it appear to the House by affidavit, that he was by sudden accident or necessity prevented from attending. If more than two members of the Committee be absent, they shall adjourn from time to time until five members are present.

13. The Committee may send for persons, papers, and records, and shall examine all witnesses on oath, to be administered by the chairman, and shall determine by a majority whether the petitioner or sitting member, or either of them, be duly elected or returned, or whether the election be void, which determination shall be final; and the House, on being informed thereof by the chairman, shall order the same to be entered in the Journals, and give the necessary directions for carrying such determination into execution.

14. If the number of members able to attend the said Committee shall, by death or otherwise, be unavoidably reduced to less than five, and so continue for the space of six consecutive days, the said Committee shall be dissolved, and another chosen in the manner and for the purpose aforesaid.

15. If the said Committee shall come to any other resolution than a final determination, they shall report the same to the House for their opinion, the chairman informing the House of such determination, and the House may make such order thereon as they deem proper.

16. If any person summoned by the said Committee shall disobey such summons, or if any witness before such Committee shall prevaricate, or otherwise misbehave in giving or refusing to give evidence, the chairman, by the direction of the Committee, may at any time during the course of their proceedings report the same to the House, who may commit the offender for the contempt during pleasure ; and all persons who shall be guilty of wilful and corrupt perjury in any evidence which they shall give before the House or the said Committee, under the oath to be taken by virtue of this Chapter, shall, on conviction thereof, suffer the penalties incident thereto.

17. Whenever the Committee shall deem it necessary to deliberate among themselves upon any question arising in the course of the trial, or upon the determination thereof, or upon any resolution concerning the matter of the petition, when they shall have heard the evidence and the parties or their counsel relative thereto, the room shall be cleared during such deliberation ; all such questions, determinations, and resolutions, shall be decided by a majority.

18. The Committee may examine any person as a witness, although he may have subscribed the petition to try and determine such election or return.

19. The Committee when they report to the House their final determination on the merits of the petition, shall also report whether the petition in their opinion be frivolous or vexatious, and they shall also report with respect to every party who shall have appeared before them in opposition to such petition, whether in their opinion such opposition was frivolous or vexatious, and if no party shall have appeared before them in opposition, they shall then report to the House whether such election or return, as the case may be, was in their opinion vexatious or corrupt.

20. Whenever the Committee shall report to the House that any such petition in their opinion is frivolous or vexatious, the adverse party may recover from the petitioner full costs, and the expenses which he shall have incurred in opposing the same, which shall be ascertained as hereinafter directed.

21. Whenever the Committee shall report to the House that the opposition to the petition appeared to them to be frivolous or vexatious, the petitioner may recover full costs and the expenses

which he shall have incurred in prosecuting such petition, the same to be ascertained as hereinafter directed.

22. The costs and expenses of prosecuting or opposing any such petition shall be ascertained as follows:—On application made to the Speaker he shall examine and tax the same, calling to his assistance, if he think fit, the Clerk, or Clerk Assistant of the House, the Clerk of the Supreme Court, or a Master in Chancery, and when taxed, the Speaker shall deliver to the party a certificate of the amount taxed; and the party entitled to such costs and expenses, or his executor, may demand the amount so certified from the party liable for the payment thereof, and in case of non-payment, he may recover the same with costs in any Court of competent jurisdiction, in which action the plaintiff may declare that the defendant is indebted to him in the said amount by virtue of this Chapter; and the Speaker's certificate of such amount, with an official copy of the Resolution of the Committee, shall be sufficient evidence in support of such action.

23. When the amount of such costs and expenses shall have been so recoverd from any person, he may recover in like manner from any other persons liable for the payment of the same a proportionable share thereof, according to the number of persons so liable.

24. If the petitioner forfeit his recognizance, the Speaker shall certify such recognizance to the Supreme Court, and the default therein, which shall be conclusive evidence thereof; and the recognizance so certified shall have the same effect as if the same were escheated from a Court of Law; but such recognizance so certified shall be delivered by the Clerk or Clerk Assistant of the House to a Judge of the Supreme Court, or such officer thereof as the Court shall appoint to receive the same.

25. The prorogation of the General Assembly, pending the enquiry of the Select Committee, shall not dissolve the said Committee, but they shall be thereby adjourned to twelve of the clock of the day immediately following that on which the Assembly shall again meet for the dispatch of business (Sundays, Good Friday, and Christmas Day, always excepted), and their former proceedings shall be of the same force as if the House had not been so prorogued.

26. Should there be more than one petition complaining of undue election or return to be considered by the House on the same day, the House may draw and complete in the manner before mentioned another list to form the Committee on the second petition, according to the provisions of this Chapter, if not less than twenty five members be present.

27. All moneys which may be recovered and received under any recognizance which may become forfeited under this Chapter, shall be paid into the Provincial Treasury.

SCHEDEULE.

On the day of A. D. 18 , before me, D. H. Speaker of the House of Assembly of New Brunswick, (*or J. G. Justice for* ,) came C. D. petitioner, of , E. F. of , and G. H. of , and severally acknowledged to owe the Queen as follows:—The said C. D. two hundred pounds, and the said E. F. and G. H. one hundred pounds each, to be levied on their respective goods and chattels, lands and tenements, to Her Majesty's use, if the said C. D. fail in performing the condition hereunder:

Which condition is, if the said C. D. shall duly appear before the House of Assembly at such time as shall be determined by the said House for taking into consideration the petition signed by the said C. D., complaining of an undue election or return for County (*or City*), and shall appear before any select Committee which shall be appointed for the trial of the same; or if the said petition shall be withdrawn by permission of the House; and shall also well and truly pay all expenses which shall be due and payable from the said petitioner to any witness who shall be summoned to give evidence in his behalf; and if the said C. D. shall also well and truly pay all costs and expenses of the party opposing such petition, if the said petitioner shall fail to appear before the House at the time fixed for taking such petition into consideration; or if the select Committee appointed by the House to try the matter of the said petition, shall report to the House that the said petition appears to them to be frivolous or vexatious; then this recognizance shall be void, otherwise of force.

(Signed)

D. H. Speaker.
or J. G. J. Peace.

TITLE XX.

OF THE FREE NAVIGATION OF THE INTERNAL WATERS.

CHAPTER 99.

Section 1.—Railway Companies restrained, from what.

1. No Railway Company shall construct or maintain any tunnels, bridges, passages, or other works, over or under any navigable River or Canal in this Province, having a tendency to impede the free navigation of the same.
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TITLE XXI.

OF THE TREATY OF WASHINGTON.

CHAPTER 100.

Section 1.—Who may pass conveyance, and the effect thereof.

1. The Governor in Council may pass any grant, release, or other conveyance, in the name of the Queen, that may be deemed necessary to carry into full effect all the stipulations contained in the Fourth Article of the Treaty of Washington, made and entered into between Her Most Gracious Majesty and the United States of America, so far as may relate to any such conveyance.
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TITLE XXII.

OF THE SEA AND RIVER FISHERIES.

CHAPTER 101.

Section.

1. Wardens, appointment and duty.
2. Warden's pay, amount, by whom, and when paid.
3. Assessment for Warden's pay, amount, by whom authorized.
4. Warden competent witness.
5. Leases, &c., when, by whom, and how granted.
6. Regulations of Governor in Council.

Section:

7. Gurry grounds.
8. Fishways to be made, in what dams.
9. Rubbish, where it shall not be thrown.
10. Where, when, and in what manner salmon shall not be taken, sold, &c.
11. Angling for salmon, how long permitted.
12. Placing nets, &c., restriction as to.
13. Gates, ordered for what, and by whom.
14. Nets to be seized, when and by whom.

Section.	Section.
15. When and where herring shall not be taken, offence.	19. Penalty for breach of what Section.
16. Penalty for breach of what Section.	20. Do. do. what Sections.
17. Do. do. what other Section.	21. Do. do. what Section.
18. Penalties of what Section, to whom paid.	22. Penalties, recovery, and application.

1. The Governor in Council may appoint two Wardens of the Fisheries in any County, who shall watch over and protect the fisheries, enforce the provisions of this Chapter, the rules of the Justices in Session, or Municipal authorities, and the regulations of the Governor in Council, in relation to such fisheries ; and they shall be subject to the directions of, and liable to the penalties imposed by the Governor in Council in the regulations, for misconduct or neglect of duty.

2. Each Warden in addition to the proportion of any penalty received under this Chapter, shall receive from the Provincial Government forty pounds per year for his services ; the same shall not be drawn until it be certified to the Governor in Council that the County for which he may have been appointed has provided a similar sum for that purpose.

3. The Justices in Session, or at any Special Sessions if called for that purpose for any County to which any Warden may have been appointed, may assess the inhabitants of the said County for the sum of forty pounds for each Warden, which shall be assessed, collected, and paid as other County rates.

4. Nothing in this Chapter shall prevent the Warden from being a competent witness for the recovery of any penalty therein mentioned.

5. The Governor in Council may grant leases or licences of occupation, for a term not exceeding five years, for Fishing Stations on ungranted shores, beaches, or islands, which shall terminate when such stations cease to be used for such purpose ; no station shall occupy the whole of a locality where there may be space for more than one. When application is made for any such station, the lease or licence therefor shall be sold at public auction after thirty days notice, the upset price being determined by the Governor in Council, but the rights of parties in lands and privileges already granted shall not be affected thereby.

6. The Governor in Council may make regulations for the management and protection of the fisheries on the sea coast,

or around any island of the said coast between low water mark and three marine miles, imposing no greater penalty thereby than fifteen pounds, nor any larger imprisonment than ten days. The regulations shall be published in the Royal Gazette.

7. The Wardens of any County shall when necessary, mark out and designate in proper positions "Gurry Grounds," putting up notices thereof, describing their limits and position, in the several school houses, and other most public places in the Parish where the said gurry grounds are marked out, publishing the like notice in the Royal Gazette; and no person after such posting and publication shall cast overboard from any boat or vessel the offal of fish into the waters at or near the said Parish at any place except the said gurry grounds.

8. In every dam built, or which may hereafter be built, across any stream or river, except where fish may not resort, a proper and suitable fishway shall be made and kept, the Wardens having jurisdiction determining the exception.

9. No slabs, edgings, or other mill rubbish, sawdust excepted, shall be allowed or put in any river or stream.

10. No salmon shall be taken on the coast, nor in any of the bays, rivers, or harbours, or in any fresh water stream or river, after the thirty first day of August in any year, nor between sunset on any Saturday night and sunrise on the following Monday morning, nor in any place at any time by spearing between the thirty first day of August in any year and the first day of April ensuing, nor shall any person sell or offer for sale, or purchase, between the said last mentioned days, any salmon taken by spearing.

11. Angling for salmon shall be permitted until the fifteenth day of September in each year.

12. Within the Parishes of Grand Manan, West Isles, Campo Bello, Pennfield, and Saint George, in the County of Charlotte, no seine or net shall be set across the mouth of any haven, river, creek, or harbour, nor in such place extending more than one third the distance across the same, or be within forty fathoms of each other, nor shall they be set within twenty fathoms of the shore at low water mark.

13. Every fish weir in the Parishes named in the preceding Section, dry at low water mark, or which in the opinion of the

Wardens requires a gate, shall have a gate therein of such width and in such position as they may determine.

14. The Wardens and Overseers of the fisheries in the Parishes named in Section 12, shall severally seize and remove any net or obstruction whatever set or placed contrary to the provisions of this Chapter, and after five days notice may sell the same, together with any fish found therein, in some public place in the Parish where the seizure is made. After deducting from the proceeds the charges of seizure and sale, the residue shall be applied to the payment of any penalty incurred under this Chapter, and any overplus to the Overseers of the Poor where the offence was committed.

15. No herrings shall be taken between the fifteenth day of July and the fifteenth of October in any year, on the spawning ground at the southern head of Grand Manan, to commence at the eastern part of Seal Cove, at a place known as Red Point; thence extending westerly along the coast and around the southern head of Bradford's Cove, about five miles, and extending one mile from the shore; all nets or engines used for catching herring on the said ground within that period, shall be seized and forfeited; and every person engaged in using the same shall be guilty of a misdemeanor and punished accordingly.

16. Any owner or occupier of any fish weir violating the provisions of Section 13 of this Chapter, shall forfeit five pounds for each day's neglect after due notice.

17. Any person guilty of a breach of the provisions of Section 7 of this Chapter, shall pay a fine for each offence not exceeding five pounds nor less than ten shillings.

18. The penalties in Section 17 when recovered shall be paid to the prosecutor.

19. Any person guilty of a breach of any of the provisions of Section 12, shall for the first offence forfeit five pounds, for the second ten pounds, and for any subsequent offence fifteen pounds; one half shall be paid to the prosecutor, the other to the Overseers of the Poor for the use of the Poor where the offence was committed.

20. Any person guilty of a breach of any of the provisions of Sections 8 and 9, shall for each offence pay a fine not exceeding fifteen pounds nor less than ten shillings.

21. Any person guilty of a breach of any of the provisions of Section 10, shall for each offence forfeit the sum of ten shillings.

22. All fines and penalties under this Chapter, not otherwise disposed of, when recovered, shall be paid into the County Treasury, and appropriated one half to the Warden who may have prosecuted for the same, the other half to the use of the said County.

TITLE XXIII.

OF INTEREST AND USURY.

CHAPTER 102.

Section.

1. Interest, what to be taken, and what contracts to be void.
2. Corrupt loan of money, &c., penalty in such case.

Section.

3. What instruments and transactions excepted.

1. No person shall directly or indirectly receive, on any contract to be made for the loan of any money, or goods, more than six pounds for the forbearance of one hundred pounds for one year, and after that rate for a greater or less sum, and longer or shorter time, and all deeds and contracts for payment of any money to be lent, or for the performance of any thing undertaken, upon or by which more than such rate of interest shall be reserved or received, shall be utterly void.

2. Whoever shall upon any such deed or contract receive by means of any fraudulent loan, bargain, exchange, or transfer of any money or goods, or by any deceitful means, for the forbearing or giving day of payment beyond a year, of his money or goods, more than six pounds for one hundred pounds for one year, and after that rate for a greater or less sum, and longer or shorter time, shall forfeit for every offence the value of the principal sum or goods so loaned, bargained, exchanged, or transferred, together with all interest and other profits accruing therefrom, one moiety to be paid to the Queen for the use of the Province, and the other moiety to the person suing for the same, to be recovered by action in any Court of Record in the County where the offence may be committed,

which action shall be brought within twelve months from the time of such offence.

3. This Chapter shall not extend to Bottomry Bonds or Contracts on the bottom of any vessel, damages on protested Bills allowed by law, penalties incurred for the non-fulfilment of any contract, where such penalties are mutually binding ; and contracts for the loan or hire of any grain, cattle, or live stock let out as the parties may agree, if the lender takes the risk of casualties on himself, in which case the borrower shall not avail himself of any loss suffered through his wilful neglect, or any voluntary damage which may be committed by him.

TITLE XXIV.

OF GAMBLING TRANSACTIONS.

CHAPTER 103.

Section.

1. Gambling contracts and securities void.
2. Money lost at play, when recoverable back.

Section.

3. Money, &c, won from minor, may be recovered, by whom.

1. All instruments for the payment or securing the payment of money, performance of engagements, or conveyance of any estate, real or personal, founded upon, arising out of, or connected with any gambling transaction, shall be void ; but the wife and heirs of any person making any such instrument affecting such estate, shall be entitled to the same, whether mortgaged or otherwise, as if such person were naturally dead.

2. If any person shall in any gambling transaction within twenty four hours, or at any one meeting, lose to any other person a sum of money, or other thing of a value greater than twenty shillings, and shall pay or deliver the same or any part thereof to the winner, the loser, within one month thereafter, may recover the same from the winner.

3. The parent, guardian, or master of any minor, may likewise sue for, and recover in manner before provided, any money or thing won from such person within lawful age, and treble the value, with costs.

PART SECOND.
OF PRIVATE RIGHTS.

TITLE XXV.

OF REGULATIONS AMONG PROPRIETORS OF ISLANDS.

CHAPTER 104.

Section.

- 1. Regulations as to Islands, by whom made.
- 2. Penalty for violating.

Section.

- 3. Assessments, by whom and how ordered.
- 4. Meetings, when held.

1. The respective proprietors of the Islands in Rivers may annually meet on the first day of the Winter Sessions of the Peace in the respective Counties which include such Islands, and the majority of the proprietors present are empowered to make regulations for the managing, improving, and better husbandry of the said Islands, and to appoint pound keepers and other officers to enforce such regulations; the votes to be taken according to the respective rights or shares of the proprietors present, giving to each one vote for every lot into which the Island is divided, except in case of the owner of a part of a lot, who shall be entitled to one vote. The regulations so made shall be in writing, subscribed by the major part of the proprietors present collecting their votes as aforesaid, deposited with the Clerk of the Peace, and remain in force until others are made in their stead.

2. If any person shall occupy, manage, or improve any part of any of the said Islands contrary to any such regulations, he shall be subject to an action of trespass for the damage occasioned thereby, and forfeit the sum of two pounds to the use of the Poor of the Parish in which the Island is situate, but the prosecution must be commenced within one month.

3. The proprietors may order assessments for pounds or other necessary purposes, which shall be reported to the Sessions, and levied and collected as other County and Parish rates.

4. If the meeting is not held on the first day of the Winter Session, it may be held on any other day, notice thereof having been previously posted on the door of the Court House, signed by three of the proprietors.

TITLE XXVI.

OF INJURIES TO LANDS IN THE VICINITY OF THE RIVER SAINT JOHN.

CHAPTER 105.

Section.

1. Damage, how and from whom received.

Section.

2. Evidence in action, what.

1. Whenever damage shall occur to any low lands or meadows in the vicinity of the River Saint John, by anchoring rafts of timber, logs, and lumber, by anchors, warps, or otherwise, to the banks or low lands on the sides of the said River, the owners, managers, or conductors of the said rafts of timber, logs, or lumber, or some or either of them, shall answer to the owner of the land for such damages wantonly or wilfully done.

2. Proof of the damage of ownership in the timber, logs, or lumber, or of the identity of the managers or conductors thereof, shall be evidence in an action for such damage, to enable any person to recover the same, which action may be brought in any Court of competent jurisdiction.

TITLE XXVII.

OF MARRIAGE.

CHAPTER 106.

Section.

- 1. Who may solemnize marriage.
- 2. Appointment of Commissioners, by whom.
- 3. Publication of banns.
- 4. When marriage may not be solemnized.
- 5. Marriage, and form of Certificate.
- 6. Fee for Certificate.
- 7. Quakers, power to marry.
- 8. Registry of marriage.
- 9. What to be evidence.

Section.

- 10. Issuer of Marriage licences.
- 11. Clerk of Peace to transmit list of certificates.
- 12. Blank licences, when and by whom issued.
- 13. List of marriages, by whom transmitted.
- 14. What marriage not void for want of licence.

1. Every Christian Minister or Teacher duly ordained according to the rites and ceremonies of the denomination to which he belongs, being a British subject, not engaged in any secular calling, having charge of a Congregation in this Province or connected therewith, may solemnize marriage by licence or publication of banns.

2. The Governor in Council shall have power to appoint such and so many Justices of the Peace as may be deemed advisable, Commissioners to solemnize marriage.

3. Publication of banns shall be made by proclaiming with an audible voice, during divine service on three Sundays successively, such intended marriage, in some Church, Chapel, or other place of meeting for religious worship, in the Parish where either of the parties reside.

4. No person shall knowingly solemnize any marriage where either party is under the age of twenty one years, without the consent of father or guardian.

5. Every marriage shall be solemnized in the presence of two or more credible witnesses, besides the persons celebrating the same, and immediately thereafter a certificate thereof to the following effect shall be made, that is to say:—

A. B. of the Parish (or City) of , and C. D. of the Parish (or City) of , were married by Banns (or Licence) with consent of father (or guardian) in the year , by me,

E. F. { Rector, &c.,
 { as the case may be.

This marriage was solemnized between us, A. B.
 C. D.

In presence of G. H.
 I. K.

Which shall be forthwith transmitted by the person celebrating such marriage, to the Clerk of the Peace of the County in which the marriage was solemnized, and immediately registered in full, and filed, indorsed with the day of the registry and page of the book in which it is registered.

{ 6. The person celebrating any marriage shall demand and receive seven shillings and six pence, three shillings and nine pence thereof for making and transmitting the certificate, and the remainder he shall pay to the Clerk of the Peace for registering and filing the same.

7. Quakers may solemnize marriage between persons of that denomination, according to their forms and usages, and the Clerk of the meeting in which the marriage is solemnized shall transmit to the Clerk of the Peace a certificate of every such marriage, to be registered by him.

8. Every Clerk of the Peace shall keep a book, to be paid

for by the County, for the registry of the certificates of marriages solemnized in his County.

9. A copy of the record of the certificate, certified by the Clerk of the Peace, shall be evidence of the marriage without further proof.

10. The Governor in Council shall appoint one or more persons in every County in the Province, not being Ministers of Religion, to issue Marriage Licences and take the necessary Bonds, under such regulations as may be prescribed, which Bonds shall be transmitted on or before the first of January in every year to the Office of the Provincial Secretary to be filed.

11. The Clerks of the Peace for the respective Counties shall on or immediately after the first day of January in every year, transmit to the Secretary a list of the persons certified to have been married in the year preceding, specifying whether by licence or publication of banns.

12. The Secretary may issue licences in blank, marked with the number and date of issuing, but he shall keep a register thereof, shewing the date and person to whom issued.

13. Every person authorized to solemnize marriage shall on or immediately after the first day of January in every year, forward to the Secretary a list of the marriages celebrated by him for the year preceding, specifying whether by licence or banns, with the number and date of the licence and date of the marriage.

14. No marriage intended to be celebrated by licence, and actually solemnized before the passing of this Chapter, shall be void or voidable because no licence therefor had been previously obtained, if no other impediment or lawful hinderance existed at the time of its celebration.

TITLE XXVIII. OF THE CHURCH OF ENGLAND.

CHAPTER 107.

Section.

1. Who shall be admitted to a Parsonage, &c.
2. Duty of beneficed Clergymen, penalty for neglect.
3. Form of service to be used, &c.; punishment.

Section.

4. Rector, when to be deemed Rector of an adjoining Parish.
5. Election of Church Wardens and Vestry.
6. In churches where sittings are free, mode of election of officers.

Section.

7. What deemed a Corporation, their powers.
 8. Lands, in whom vested.
 9. Glebe lands, by whom held in trust.
10. In absence of Rector, who to act.
 11. Who shall preside at annual meetings.
 12. Where corpses not to be interred.
 13. Existing rights and liabilities not affected.

1. No person shall be capable to be admitted to any Parsonage, or other ecclesiastical benefice or promotion, until he shall be ordained according to the form and manner by law established in the Church of England.

2. Every person having any ecclesiastical benefice or promotion (not having some lawful impediment to be allowed by the Governor), shall once at least in every month, upon some Lord's day, in the Church or place of public worship belonging to his benefice, openly read the service prescribed by the Liturgy of the Church of England, and (if there be occasion) administer each of the Sacraments as appointed by the Liturgy, under the penalty of five pounds, to be paid to the use of the Poor of the Parish for every offence.

3. Any person having any ecclesiastical benefice or promotion in the said Church, who shall openly use in any place of public worship, any other order or form of Common Prayer, administration of Sacraments, Rites, and Ceremonies, than what is prescribed and appointed to be used by the Liturgy, being convicted thereof in the Supreme Court, or at the Assizes, shall be ipso facto disabled to officiate in the Church, and deprived of his benefice, and the Governor may present to the same as if the person so offending were dead.

4. Any person duly inducted into the Rectory of any Church shall be deemed to be the Rector of any other Church or Churches in the same or any other Parish, upon receiving the sanction of the Governor, and letters of institution from the Bishop giving him spiritual charge thereof, and there being no other legally licenced Priest or Deacon in holy orders officiating in such other Parish, but he shall have no power to fell, cut down, or take away any of the timber or wood growing on any part of the Glebe, without express licence in writing from the Church Wardens and Vestry.

5. The pewholders or lessees of pews in any Parish Church, or Chapel of Ease connected therewith, shall on the first Monday after Easter in every year meet together at such Church, and then and there by plurality of voices elect two fit persons to be Church Wardens, and any number not exceeding

twelve to be Vestrymen for the year ensuing; such Church Wardens and Vestrymen to be pewholders in the said Church, or a Chapel of Ease connected therewith, and resident in the Parish or the one adjoining thereto, who shall continue in office until other fit persons are chosen in their stead.

6. In any Parish where the sittings in the Church are free, and wherever hereafter the seats in any Church shall be declared free by the Rector, Church Wardens, and Vestry thereof, with the written consent of all the pewholders, the Church Wardens and Vestry shall be elected in the same manner, and with the same authority, as in case of a pewholder, only that every male person of the age of twenty one years or upwards, resident in the Parish in which such Church is situated, who shall have been for at least six months cf the year preceding the election a stated hearer and attendant at the worship in the said Church, or some Chapel of Ease connected therewith, and shall at the time of the election produce a receipt from the Church Wardens and Vestry of the said Church for the payment of the sum of twenty shillings or upwards in aid of the funds of the said Church for the year preceding the day of election, shall be qualified to vote for and to be elected a Church Warden and Vestryman.

7. The Rectors, Church Wardens, and Vestries are hereby constituted bodies corporate, and shall, by the name of "The Rector, Church Wardens, and Vestry" of the respective Churches to which they belong, according to the particular designation thereof, and their successors for ever, be a body politic and corporate in deed and in name, with full power to sue and be sued, and to purchase, receive, and hold grants of real and personal estate for the use of the Church, give leases for any period not exceeding twenty one years under the seal of the Corporation, with covenants for renewal, and receive the rents thereof for the like use, and to have a common seal, with power to break or renew the same at pleasure, and to make bye laws, rules, and regulations for the management of the temporalities of the Church, and the support thereof, not repugnant to law; but they shall have no power to sell absolutely any real estate of the Church, nor shall the annual revenues derived from rents of land exceed one thousand pounds.

8. The lands conveyed to the use of any Church erected or to be erected in any Parish, with any Church built thereon, shall be vested in such Church Corporation for such Parish in fee.

9. The Rector, Church Wardens, and Vestry of any such Church shall be capable of receiving and holding any lands for the use and benefit of the Rector, and all lands heretofore granted to any such Rector, Church Wardens, and Vestry, upon trust for the use and benefit of the Rector, shall be held by the said Rector, Church Wardens, and Vestry, for the uses and trusts expressed in the grant or conveyance thereof, subject to the sole management and direction of such Rector, and be used and enjoyed by him for the best benefit and advantage of himself and his successors, in like manner as glebe lands are held and enjoyed in England ; but he shall have no power to fell, cut down, or take away the timber or wood growing on any part thereof, without express licence in writing from the Church Wardens and Vestry of the said Church.

10. In case of the death or absence from the Province of the Rector of any Church, or where no Rector shall have been appointed, the Church Wardens and Vestry in such Parish shall have the full authority herein given to the Rector, Church Wardens, and Vestry of such Church.

11. At the annual meeting for the election of Church Wardens and Vestrymen, the Rector shall preside; if there be no Rector, or he shall be unable to attend, the persons qualified to elect may meet at the Parish Church, appoint a Chairman, and elect Church Wardens and Vestrymen.

12. No corpse shall be interred within or under any Church erected or to be hereafter erected.

13. Nothing in this Chapter contained shall affect the existing rights or liabilities of any Rector, Church Wardens, and Vestry duly incorporated or acting as a Corporation, or any lessees or other persons claiming under them, before the passing of this Chapter.

TITLE XXIX.

OF THE RELIEF OF ROMAN CATHOLICS.

CHAPTER 108.

Section 1.—What Act extends to this Province.

1. An Act of the Imperial Parliament* passed in the tenth year of the Reign of His Majesty King George the Fourth, for the relief of the Roman Catholics, shall extend to this Province so far as the provisions thereof are applicable.

* See Third Volume for Imperial Act.

10 Geo IV. C. 7. P. 401.

TITLE XXX.

OF THE ACQUISITION AND TRANSMISSION OF PROPERTY.

CHAPTER 109.

OF NOVA SCOTIA GRANTS.

Section.

1. Grants registered, when valid.

Section.

2. Boundaries of Grants in Charlotte County,
how ascertained.

1. Every grant or letters patent of land situate in this Province, passed under the Great Seal of Nova Scotia, upon the organization of this Province, or a copy thereof duly authenticated by the Registrar of the Province of Nova Scotia, and exemplified under the Great Seal of the same on or before the third day of January one thousand seven hundred and eighty seven, by the Secretary, shall be valid and effectual for the uses and purposes therein mentioned; and every such grant or letters patent not so registered shall be void.

2. In any of the said grants of lands in the County of Charlotte, the courses of the boundary lines shall be ascertained by reference to the true meridian, as represented on the plans thereto annexed.

CHAPTER 110.

OF WILLS.

Section.

1. What property may be disposed of by Will.
2. Estates *pur autre vie*.
3. Will by person under age, effect of.
4. Of married women, effect of.
5. Number of witnesses requisite.
6. Appointments.
7. Soldiers and Mariners, how affected.
8. What Wills do not require publication.
9. Effect of Will, although witness incompetent.
10. Devise, &c., to attesting witness, effect of.
11. When creditor attesting may be witness.
12. Executor not incompetent.
13. When Will revoked.
14. Not by presumption.
15. Only to be revoked by another Will, &c.
16. Alteration, &c., when valid.

Section.

17. How a revoked Will may be revived.
18. When devise not inoperative.
19. When Will shall have effect.
20. When residuary devise shall include lapsed devises.
21. What a general devise of land includes.
22. What a general gift includes.
23. What devise without limitation shall pass.
24. Construction of words "die without issue" &c.
25. When devise to Executors or Trustees of fee shall be whole estate.
26. Trustees under unlimited devise, how to take.
27. When devise of estates tail shall not lapse.
28. What gifts to children shall not lapse.
29. Explanation of terms.

1. Every person may dispose of by his Will, executed in manner hereafter required, all real and personal estate which he shall be entitled to at law or in equity at the time of his death, and which if not so disposed of, would devolve upon his heir, child, or next of kin, or upon his representatives; and the power hereby given shall extend to estates *pur autre vie*, whether or not there shall be any special occupant thereof, and whether the same shall be a corporeal or incorporeal hereditament, and also to all contingent, executory, or other future interests in any real or personal estates, whether the testator may or not be ascertained as the person, or one of the persons, in whom the same respectively may become vested; and whether he may be entitled thereto under the instrument by which the same respectively were created, or under any disposition thereof, by Deed or Will, and also to all rights of entry for conditions broken, and other rights of entry; and also to such of the same estates, interests, and rights, respectively, and other real and personal estate, as the testator may be entitled to at the time of his death, notwithstanding he may become entitled to the same subsequently to the execution of his Will.

2. If no disposition by Will be made of any estate *pur autre vie* of a freehold nature, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of special occupancy as assets by descent, as in the case of freehold land in fee simple; and in case there shall be no special occupant of any estate *pur autre vie*, whether a corporeal or incorporeal

hereditament, it shall go to the representatives of the party that had the estate thereof by virtue of the grant, and if the same shall come to them either by reason of a special occupancy, or by virtue hereof, it shall be assets in their hands, and be applied and distributed in the same manner as the personal estate of the testator or intestate.

3. No Will made by any person under the age of twenty one years shall be valid.

4. No Will made by any married woman shall be valid, except such a Will as might have been made by a married woman before the passing of this Act.

5. No Will shall be valid unless it shall be in writing, and executed in manner hereinafter mentioned, that is to say, it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction; and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses shall attest and subscribe the Will in the presence of the testator, and in presence of each other; but any Will, although not signed at the foot or end thereof, shall be valid if it be apparent from the Will and position of the signature, or from the evidence of the witnesses thereto, that the same was intended by the testator to be his last Will; but no form of attestation shall be necessary.

6. No appointment made by Will in exercise of any power shall be valid, unless the same be executed in manner hereinbefore required; and every Will so executed shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by Will, notwithstanding it shall have been expressly required that a Will made in exercise of such powers shall be executed with some additional or other form of execution or solemnity; but any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done heretofore.

7. This Chapter shall not prejudice or affect any of the provisions of an Act of the Imperial Parliament passed in the eleventh year of the Reign of King George the Fourth, and in the first year of King William the Fourth, entitled "An Act to amend and consolidate the laws relating to the pay of the

Royal Navy," respecting the Wills of petty officers and seamen in the Royal Navy, and non-commissioned officers of Marines, so far as relates to their wages, pay, prize money, bounty money, and allowances, or other moneys payable in respect of services in Her Majesty's Navy.

8. Every Will executed in manner hereinbefore required, shall be valid without any other publication.

9. If any person who shall attest the execution of a Will shall, at that time, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such Will shall not on that account be invalid.

10. If any person shall attest the execution of any Will, to whom, or to whose wife or husband any beneficial devise, legacy, estate, interest, gift, or appointment of, or affecting real or personal estate (other than and except charges and directions for the payment of any debt or debts) shall be thereby given or made, such devise, legacy, estate, interest, gift, or appointment, shall, so far only as concerns such person attesting the execution of such Will, or the wife, or husband of such person, or any person claiming under such person, or wife or husband, be void ; and such person so attesting, shall be admitted as a witness to prove the execution of such Will, the validity or invalidity thereof.

11. If by a Will any real or personal estate shall be charged with any debt or debts, and any creditor, or the wife or husband of any creditor, whose debt is so charged, shall attest the execution of such Will, such creditor, notwithstanding such charge, shall be admitted a witness to prove the execution of such Will, the validity or invalidity thereof.

12. No person shall, on account of his being an executor of a Will, be incompetent as a witness to prove the execution, the validity or invalidity thereof.

13. Every Will made by a man or woman, shall be revoked by his or her marriage, except a Will made in exercise of a power of appointment, when the real or personal estate thereby appointed would not, in default of such appointment, pass to his or her heir, child, next of kin, or representative.

14. No Will shall be revoked by any presumption growing out of an alteration in circumstances.

15. No Will, or Codicil, or any part of either, shall be

revoked otherwise than as aforesaid, or by another Will or Codicil, executed in any manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner hereby already required, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence, and by his direction, with the intention of revoking the same.

16. No obliteration, interlineation, or other alteration made in any Will after the execution thereof shall be valid, or have any effect, except so far as the words or effect of the Will before such alteration shall not be apparent, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; but the Will with such alteration as part thereof shall be deemed to be duly executed, if the signature of the testator, and the subscription of the witness, be made in the margin, or on some other part of the Will opposite or near to such alteration, or at the foot or end of, or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

17. No Will or Codicil, or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a Codicil executed in the manner hereinbefore required, and shewing an intention to revive the same; and when any Will or Codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary be shewn.

18. No conveyance or other act made after the execution of the Will, of or relating to any real or personal estate therein comprised, except an act by which such Will shall be revoked as aforesaid, shall prevent the operation of the Will with respect to such estate, or interest in such real or personal estate, as the testator shall have power to dispose of by Will at the time of his death.

19. Every Will shall be construed with reference to the real and personal estate comprised therein, as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the Will.

20. Unless a contrary intention appear by the Will, such

real estate, or interest therein, as shall be comprised or intended so to be, in any devise in such Will contained, which shall fail or be void by reason of the death of the devisee in the life time of the testator, or by reason of such devise being contrary to law or otherwise incapable of taking effect, shall be included in the residuary devise, if any contained in such Will.

21. A devise of land of the testator, or of his land in any place, or in the occupation of any person mentioned in his Will, or described in a general manner, and any other general devise which would describe a leasehold estate, if the testator had no freehold estate which could be described by it, shall be construed to include the leasehold estates of the testator to which such description shall extend, as well as freehold estates, unless a contrary intention shall appear by the Will.

22. A general devise of the real estate of the testator, or of his real estate in any place, or in the occupation of any person mentioned in his Will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which such description shall extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will ; and in like manner a bequest of the personal estate of the testator, or any bequest of personal property described in a general manner, shall be construed to include any personal estate, or any personal estate to which the description shall extend (as the case may be), which he may have power to appoint, in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will.

23. Where any real estate shall be devised to any person without words of limitation, such devise shall be construed to pass the fee simple or the whole estate or interest which the testator had power to dispose of by Will in such real estate, unless a contrary intention appear by the Will.

24. In any devise or bequest of real or personal estate, the words "die without issue," or "die without leaving issue," or "have no issue," or any other words which may import either a want or failure of issue, of any per-

son in his life time, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the life time, or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the Will, or by reason of such person having a prior estate tail, or of a preceding gift, being without any implication, arising from such words, or limitation of an estate tail, to such person or issue, or otherwise; but nothing herein shall extend to cases where such words as aforesaid import if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age, or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue.

25. Where any real estate shall be devised to any Trustee or Executor, such devise shall be construed to pass the fee simple, or the whole estate or interest which the testator had power to dispose of by Will in such real estate, unless a definite term of years absolute or determinable, or an estate of freehold, shall thereby be given to him expressly or by implication.

26. Where any real estate shall be devised to a Trustee without any express limitation of the estate to be taken by him, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, shall not be given to any person for life, or such beneficial interest shall be given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall be construed to vest in such Trustee the fee simple or other the whole legal estate, which the testator had power to dispose of by Will in such real estate, and not an estate determinable when the purposes of the trust shall be satisfied.

27. When any person to whom any real estate shall be devised, for an estate tail, or an estate in quasi entail, shall die in the life time of the testator, leaving issue who would be inheritable under such entail, and any such issue shall be living at the time of the death of the testator, such devise shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

28. Where any person being a child or other issue of the

testator to whom any real or personal estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person, shall die in the life time of the testator, leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

29. The words and expressions in this Chapter mentioned, and here following, which in their ordinary signification have a more confined or different meaning, shall, except where the nature of the provision or context exclude such interpretation, be interpreted as follows :—“ Will ” shall extend to a testament, and to a codicil, and to an appointment by Will or writing in nature of a Will in exercise of a power, and to any other testamentary disposition ; “ real estate ” shall extend to messuages, lands, rents, and hereditaments, whether corporeal or incorporeal, or personal, and to any undivided share thereof, and to any estate, right, or interest (other than a chattel interest) therein ; and “ personal estate ” shall extend to chattels real, and to moneys, shares of funds, securities for money (not being real estates), debts, and other choses in action, goods, and all other personal property, or share, or interest therein.

CHAPTER III.

OF INTESTATE ESTATES.

Section.

1. Division of the real estate of intestates.
2. Distribution of surplus personal estate.

Section.

3. When to be made.

{ 1. When any person shall die intestate, the heir at law, whether lineal or collateral, shall be entitled to and have a double portion, or two shares of the real estate (subject to the Widow's right of dower), and the remainder of such estate shall be divided equally to and amongst the other children or their legal representatives, including in the distribution children of the half blood ; and in case there be no children of the intestate, then to the next of kindred in equal degree, and their

representatives; but children advanced by settlement or portions not equal to the other shares, shall have so much of the surplusage as shall make the estate of all equal, except the heir at law, who shall have two shares or a double portion of the whole.

2. The surplusage of the personal estate of the intestate shall be distributed by the Judge of Probates, in manner following, that is to say :—One third of it to the Widow, and the residue in equal portions to and amongst his children, and such persons as legally represent them. The heir at law, notwithstanding an advancement to him of real estate in the life time of the intestate, shall receive an equal share of the surplusage with the other children, but any other child receiving any such advancement shall be entitled only to such equal share deducting the value of his advancement. If there be no children nor any legal representatives of them, one moiety of such surplusage shall be allowed to the Widow, and the residue be distributed equally amongst the next of kindred of the intestate in equal degree, and those who legally represent them, but there shall be no representation among collaterals after the brothers' and sisters' children ; and if there be no Widow all such surplusage shall be distributed equally amongst the children, and if no child, to the next of kindred, in equal degree, of the intestate and their representatives ; and if after the death of the father any of his children shall die intestate without wife or children in the life time of the mother, every brother and sister, and their representatives, shall have equal share with her.

3. No distribution of the goods of an intestate shall be made till one year after his death, except by special order of the Judge of Probates ; and every person to whom distribution may be allotted shall give a bond with sureties in the Probate Court, that if any debt of the intestate shall be afterwards sued for and recovered, or be otherwise duly made to appear, the distributee shall refund to the administrators his rateable proportion of the debt and costs incurred thereby.

CHAPTER 112.

OF THE REGISTRY OF DEEDS AND OTHER INSTRUMENTS.

Section.

1. Establishment of Registry Offices.
2. Appointment of Registrars; security.
3. Duty of Registrar as to books, Deputy, and office hours.
4. What conveyances shall be registered.
5. Exceptions, in what cases.
6. Execution of conveyance, domestic or foreign, how proved.
7. Conveyance by a married woman, execution and acknowledgment.
8. Conveyance, &c., when to be marked and registered; endorsements thereon.
9. What shall be deemed registry; Registrar not obliged to attend Court therewith.

Section.

10. Conveyances proved, &c., effect of registry.
11. Conveyances proved, &c., evidence.
12. Copies of conveyances registered, when evidence.
13. When certified copy of such registry receivable in certain cases.
14. Conveyance under a Power of Attorney duly proved, &c., to be registered.
15. Discharge of mortgage, how effected.
16. Effect of words "grant, bargain, and sell."
17. Effect of priority of mortgage, &c.
18. For what subpoena may issue.
19. Partition decrees, how registered.
20. Will, copy thereof may be registered.

1. In every County there shall be one public office for the registering of all conveyances affecting any lands situated within the County for which such office is established.

2. The Governor in Council, when necessary, shall appoint a Registrar of Deeds for each County, who before entering upon the duties of his office, shall be sworn faithfully to execute the same, and if guilty of any neglect or fraudulent practice therein, shall be liable for all damages to the party injured, to be recovered with costs of suit in any Court of Record; and every such Registrar at the time of his being sworn, shall enter into recognizance to the Queen, with two or more sureties to be approved of by the Justice before whom the Registrar was sworn, in the penalty of three hundred pounds conditioned for his faithful performance of the duties of his office, which recognizance shall within three weeks after the date thereof be transmitted by such Justice to the office of the Clerk of the Pleas to be filed, and a copy thereof, certified by such Justice, shall also be filed with the Clerk of the Peace for the County where such Registrar resides.

3. The Registrar shall provide suitable books for the Records and Indexes, and such books shall be regularly paged throughout and lettered to mark their succession, and only one such book shall be in course of filling up at the same time; such Indexes to contain the names of the grantors and grantees in alphabetical order. All conveyances required to be registered in the County Registry, shall be numbered in the order they are received, and transcribed into the Registry accordingly;

and every Registrar, or in case of his necessary absence or illness, a sworn deputy approved of by the Governor, shall give attendance at his office daily, from ten o'clock in the morning till four o'clock in the afternoon, for the dispatch of all business belonging to his office, Sundays and holidays excepted.

4. All conveyances, memorials of judgments, or other instruments by which any lands may be affected in law or equity, except any lease for a term not exceeding three years, shall be registered at full length in the Registry Office of the County where the lands lie, and if not so registered, shall be fraudulent and void against subsequent purchasers for valuable consideration whose conveyances are previously registered; but where a person in any official capacity shall execute any conveyance of an interest in lands sold at public auction pursuant to law, the same, if registered within six months from the day of such sale, shall be as valid against any subsequent purchaser as if registered at the time of the sale; and all Wills registered within six months after the death of the testator dying within this Province, or within three years after his death if dying without the same, shall be as valid against subsequent purchasers as if the conveyance had been registered immediately after the death of such testator.

5. If the person interested in the lands devised by any Will, by reason of the contesting of such Will, or other cause, without his fault, be unable to exhibit the same for registry within the time before limited, and a memorial of such contest or cause be entered in the Registry Office within the space of six months after the decease of the testator dying within the Province, or within the space of three years next after his decease if dying without the Province, the registry of such Will within the space of six months next after obtaining the Will or Probate thereof, or the removal of such cause, shall be a sufficient registry within the meaning of this Chapter; but if there be any concealment or suppression of a Will, no purchaser for a valuable consideration shall be disturbed or defeated by any such Will, unless registered within three years after the testator's death.

6. Before the registry of any conveyance, the execution thereof shall be evidenced in manner following:—The person executing such conveyance shall acknowledge the execution

thereof before a Judge of the Supreme or Inferior Court of Common Pleas, or a member of the Executive or Legislative Council, or before any Registrar, or a Justice of the County in which the conveyance is to be registered; or else a subscribing witness to such conveyance shall before such Judge, member of the Executive or Legislative Council, or Registrar, prove the execution of the conveyance; and if the conveyance be by a Corporation, proof of the corporate seal shall be sufficient. If the subscribing witness or witnesses to any such conveyance be dead or without the Province, then the execution thereof may be proved before the Supreme Court, or some Circuit Court, by the ordinary legal proof; or if the person executing such conveyance, or the subscribing witness or witnesses thereto, shall live out of this Province, the acknowledgment or proof of such conveyance may be taken, if in Great Britain or Ireland, before any Judge of the Court of Queen's Bench, or Common Pleas, or Baron of the Exchequer, or Master in Chancery in England or Ireland, or any Judge or Lord of Session in Scotland, the hand writing of such persons respectively being authenticated under the seal of a Notary Public; or before any Mayor, or other Chief Magistrate of a City, Borough, or Town Corporate in any part of the United Kingdom, under the corporate seal; and if in any other part of the British dominions, before any Judge of the Supreme or Superior Court of Judicature, his hand writing being authenticated by a Notary as aforesaid, or the Chief Magistrate of any City or Municipality under the corporate seal; and if in any Foreign State or Kingdom, under the hand and seal of office of any British Minister, Ambassador, Consul, or Vice Consul resident there, or Governor of a State, or Mayor of a City.

7. A conveyance, or power of attorney for the same, by a married woman, of all her right and interest in land jointly with her husband, shall be valid if executed without compulsion from him, and the person authorized by law to take acknowledgments of conveyances in other cases, certifying thereon that he has examined her apart from her husband, and that she executed the conveyance freely.

8. When a conveyance, memorial of judgment, or other instrument aforesaid, shall be produced at the office of the Registrar, duly proved or acknowledged, he shall mark thereon

the registry number of such deed, according to the order in which it was received, and the time he received it ; and such conveyance, with the acknowledgment or proof thereon, shall be registered in the proper registry book in the order of its receipt ; and he shall endorse thereon the day of registering, and also the book and page, and under what number the same is registered ; which certificate shall be taken and allowed as evidence of such registry in all Courts of Record.

9. The production to the Registrar of a conveyance, memorial of judgment, or other instrument affecting land, duly acknowledged or proved, with the time of the production endorsed thereon shall, for the purpose of being read in evidence, be deemed to have been recorded at the time of its production to the Registrar ; and he shall not be obliged to attend any Court with the registry book after the conveyance or other instrument has been entered therein.

10. Every conveyance, duly acknowledged or proved, and registered, shall be effectual for the transferring of the lands therein described, and the possession thereof, according to the intent of such conveyance, without livery of seizin, or any other act.

11. All such conveyances so executed, acknowledged, or proved, and certified as aforesaid, and all copies of the registry thereof, duly certified by the Registrar, shall be allowed in all Courts where such conveyances or copies shall be produced, to be as good and sufficient evidence as any bargains and sales enrolled in any of the Courts at Westminster, and the copies of the enrolments thereof are in any Court in Great Britain.

12. When a party may be desirous of giving in evidence in any suit in a Court of Law or Equity, a conveyance which may have been duly registered, and be relevant to the matter in question, he may produce in evidence a copy of the registry of such conveyance, certified by the Registrar of the County where the same is registered, which copy shall, in the absence of the original conveyance, be received and allowed as evidence of the contents thereof ; but before any such copy shall be allowed, it shall appear to the Court by affidavit that such original conveyance is not under the control of the party, and that he does not know where the same may be found, and at

least fourteen days notice, in writing, shall be given to the adverse party, his attorney or agent, of the intention to offer the same ; such notice to be accompanied by a copy of such certified copy, and of the affidavit, the due service thereof being also proved by affidavit to the satisfaction of the Court.

13. No certified copy of the registry of any conveyance shall be received in evidence, otherwise than is hereby provided, unless by consent of parties, or unless it shall appear to the Court at which the trial may be had, that the original conveyance is in the possession of the adverse party, and that due notice has been given to him to produce the same.

14. Every power of attorney, or other instrument, whereby authority is given to convey or affect any lands, may, if duly acknowledged or proved, be registered in the same manner as any conveyance ; and the registry of any conveyance under such power, or other instrument, shall not be valid unless the power, or some instrument confirming it, shall be duly registered in the Registry Office of the County where the lands to which the same relate are situate.

15. A registered mortgage may be discharged by a certificate of the satisfaction of the mortgagee, his representatives or assigns, acknowledged or proved in the same manner as a conveyance, and registered, with the acknowledgment or proof, in the proper registry book, in the office where the mortgage is registered ; and the Registrar shall enter a minute of the satisfaction in the margin of the registry of the mortgage, with a reference to the book and page where the certificate is registered, and file the certificate ; or the mortgagee, his representatives, or assigns, may acknowledge satisfaction in the margin of the registry book, against the registry of the mortgage, in the presence of the Registrar, who shall witness it, and from the time of the entry thereof, it shall discharge the mortgage, and revest the legal estate in the mortgagor, his heirs, or assigns.

16. In any registered conveyance in pursuance of this Chapter, whereby an estate of inheritance in fee simple is limited to the grantee or bargainee and his heirs, the words "grant, bargain, and sell" therein, shall only amount to a covenant by the grantor or bargainer, that he has done no act to encumber the land described in such conveyance.

17. No mortgage, judgment, or other encumbrance on land, shall have any priority by reason of being held by or vested in a person who has a prior registered mortgage or encumbrance of the same land ; in any action brought by a mortgagor, his heirs, executors, or assigns, no defendant, except the mortgagee, his heirs, executors, or assigns, shall set up the mortgage to bar the right of recovery, or defeat the title of the mortgagor, his heirs, executors, or assigns.

18. Process of subpoena may be issued from the Supreme Court, or any other Court having jurisdiction, in the form as near as may be to that now in use for a cause in Court, to compel the attendance of any witness, or the production of any conveyance or instrument for the proof thereof, that the same may be registered agreeably to the provisions of this Chapter ; disobedience to such subpoena may be punished by such Court in the usual manner.

19. A memorial of any decree of partition in Chancery may be registered in the Registry Office of the County where the lands mentioned therein are situate, and shall, together with a certified copy thereof by the Registrar, have the same effect as any registered conveyance within the provisions of this Chapter, and such memorial shall be in the form following :—

New Brunswick in Equity.

A. B. Complainant, and

C. D. Defendant.

These are to certify that in and by a Decree of this Honorable Court, bearing date the day of A. D. 18 , the following partition of lands mentioned in the pleadings of this cause was ordered and decreed viz : [herein insert the several portions, and the names of the respective parties in full, as well as their several tenures.] Given under the Seal of this Court this day of A. D. 18 .

D. S. L. *Registrar.*

20. Where any Will is duly proved, and filed with the Registrar of Probates, a certified copy thereof under his hand, may be registered in the office of the Registrar of Deeds in any County, without further proof, and such registry shall have the same effect as if the original Will had been registered there.

CHAPTER 113.

OF JUDGMENTS, EXECUTIONS, AND PROCEEDINGS THEREON.

Section	Section.
1. Book to be kept, by whom, and for what.	12. Who not affected by reversal, &c., of judgment.
2. What copy to be evidence.	13. Sheriff dying before sale perfected, who may act.
3. Memorials of judgments, by whom furnished; registry thereof.	14. Death of Sheriff after seizure, who may perform duties.
4. When Memorial to bind land.	15. Lands sold in bands of tenant; rights of purchaser.
5. For what time.	16. Remedy against Sheriff for breach of duty.
6. Land, when liable to be sold on execution.	17. Satisfaction of judgments, &c., how made.
7. Trust estates, to what liable.	18. Judgment of Inferior Court, when not to bind land.
8. Land to be advertised and sold, how.	
9. When defendant may have specific portion of land sold.	
10. Deed, by whom given.	
11. Deed, evidence of what.	

1. The Clerk of the Pleas shall keep a book containing an alphabetical docket of the defendants' names of all judgments recovered in the Supreme Court, specifying the names of the parties, the venue, the amount recovered, the time of signing, and the number of the roll, for which purpose every Attorney shall deliver with the judgment roll a docket of the above particulars; and until such entry no judgment shall bind any real estate, nor shall any execution issue thereon.

2. A copy of the docket of such judgment, certified by the Clerk of the Pleas, or his Deputy, shall be evidence of the docketing of such judgment in all Courts.

3. The Clerk of the Pleas shall on request furnish the party obtaining the judgment with a memorial signed by him, or his deputy, containing the names of the parties, the sums recovered, and the time of signing the judgment, verified by an affidavit, and upon the production thereof the Registrar shall register the same; and after the registry, a copy thereof, with the endorsements, certified under his hand, shall be evidence of the registry.

4. A memorial of every such judgment, registered in the office of the Registrar of Deeds of the County where the lands lie, or an execution thereon delivered to the Sheriff to be executed, shall bind the lands of the person against whom the judgment was recovered or the execution issued.

5. Every judgment, of which a memorial shall be registered, shall bind the lands of the person against whom it was recovered for five years from the registry, but after that period, if it remain unsatisfied, the memorial may be renewed for a further

period of five years with the like effect, and so on as often as required.

6. The lands of every person, his possessory right, and right of entry, may be seized and sold as personal estate to satisfy his debts, and the executions shall be subject to the same order of priority as in other cases; but the Sheriff to whom a writ of fieri facias is directed shall not sell the lands until the personal estate, if any can be found, is exhausted ; if there be a surplus he shall pay it over as the Court or a Judge shall direct.

7. The right of the party beneficially interested in lands held in trust for him, may be taken in execution for the payment of his debts, in the same manner as if he were seized or possessed of such lands, and his legal and equitable estate shall vest in the purchaser.

8. No sale of the lands of any person shall be made until the Sheriff advertise the time and place thereof at least six months continuously in some Newspaper in the County, and if there be none, then in the Royal Gazette, also in the office of the Registrar of Deeds, on the Court House, in some public place in the Parish where the lands lie, and in another public place in the said County ; the sale shall be made at the Court House, unless the Sheriff shall otherwise direct in the notice, and be between the hours of twelve and five in the afternoon.

9. If the defendant, by notice in writing delivered to the Sheriff twenty days before the sale, require that certain portions of the land so advertised be sold first, he shall cause the same to be first put up for sale, and if a sufficient sum shall be realised to satisfy the execution and expenses, no other part of such land shall be sold, otherwise he shall proceed to sell the remainder.

10. The Sheriff shall execute to the purchaser a Deed (A) of such lands, reciting the execution under which the same was made as directed in Form (A); which shall be sufficient to convey all the interest of the person against whom such execution was issued.

11. The deed of the Sheriff duly executed, acknowledged, and registered, with an affidavit of such officer or his deputy, made at any time prior to the registry thereof, before and endorsed thereon by any person authorized to take acknowledgments or proof of deeds, that the property so conveyed was

regularly seized, advertised, and sold, with proof of the judgment and execution upon which the same is founded, shall be prima facie evidence of all the matters therein set forth.

12. No reversal or setting aside of any judgment or process shall affect the title of any bona fide purchaser thereunder, but it shall operate against the plaintiff or his representatives, to compel him or them to restore in value to the defendant what he has lost.

13. If the Sheriff dies or goes out of office before the completion of the sale, the affidavit may be made with the like effect by his successor, who shall swear to the regularity of the proceedings taken by him, and that upon diligent enquiry he verily believes that the proceedings taken by his predecessor were regular.

14. In case of the death or going out of office of the Sheriff who has seized, advertised, or sold any lands, the sale or conveyance thereof, or both, may be completed by his successor without any new writ or other alteration in the proceedings, in the same manner and with the like effect in all respects as if all the proceedings had been done by the same officer, dividing the poundage equally between the officer who made the sale and conveyance, and the officer who made the seizure, or his representatives, and the other execution fees shall be paid to the officer who performed the duty.

15. When land so conveyed shall be in possession of the tenants of the judgment debtor, the purchaser shall become the landlord, and shall have the like rights and remedies against the tenant as the judgment debtor would have had, and be entitled to all rents accruing after such purchase.

16. If any Sheriff shall in any way act contrary to his duty herein directed, or refuse to pay over the surplus money arising from the sale, if any remain, contrary to any order of the Court, he shall answer the same to the person injured, in damages to be recovered in any Court of competent jurisdiction, with costs of suit.

17. Satisfaction of any such judgment or recognizance may be acknowledged before the Registrar by the person, his representatives, or assigns, who has recovered the same, or by his certificate thereof attested by two witnesses, verified by the affidavit of one of them; in either case the Registrar shall enter

the fact of satisfaction in the margin of the entry of the memorial, whereupon it shall be cancelled. If the satisfaction shall appear of record, the Clerk of the Pleas shall give a certificate thereof, which being produced to the Registrar, with an affidavit of his signature, he shall enter the satisfaction of the judgment as in other cases.

18. No judgment of any Inferior Court, or recognizance, other than such as shall be entered into in the name of Her Majesty, shall affect or bind lands.

(A)

Form of Conveyance by the Sheriff.

To all whom these presents shall come.

I A. B. Sheriff of send greeting. Whereas by a certain Writ of Fieri Facias to me directed, issued the day of in the year &c., I was commanded to make of the goods and chattels, lands and tenements of , in my bailiwick, the sum of , and have the same at the Supreme Court on [return day] to render to

And whereas I have for want of goods and chattels taken certain lands and tenements of the said , described as follows: [set forth the description] and after advertising and selling the same according to law, became the purchaser for the sum of

Now know ye, that I the said Sheriff in pursuance of the power in me vested, and in consideration of the said sum of , do grant, bargain, and sell unto the said , all the said lands and tenements, together with all buildings and the appurtenances thereon being, to hold the same unto the said , his heirs and assigns, for ever.

In witness whereof I have hereunto set my hand and seal the day of in the year 18 . .

*Signed, Sealed, and delivered }
in the presence of }*

On this day of , 18 , before me , personally appeared the above named Sheriff, and acknowledged the within conveyance to be his act and deed, executed by him for the purposes therein mentioned.

J. P.

On this day of 18 , before me, &c., personally appeared , the above named Sheriff (or Deputy Sheriff) and made oath that all the acts required by law for sale of the lands and tenements mentioned in the above deed were truly performed by the said Sheriff.

J. P.

CHAPTER 114.

OF THE REAL AND PERSONAL PROPERTY OF MARRIED WOMEN.

Section.

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|---|--|
| 1. Property of married women, how exempt
from husbands' liabilities.
2. When and how married women may sue. | Section.
3. Property, when to vest in her.
4. Right to dower not affected. |
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1. The real and personal property belonging to a woman before, or accruing after marriage, except such as may be received from the husband while married, shall be owned as her separate property so as to exempt it from seizure or responsibility in any way for the debts or liabilities of her husband, and shall not be conveyed, encumbered, or disposed of without her consent, testified, if real property, by her being a party to the instrument conveying, encumbering, or disposing of the same, duly acknowledged, as provided by the laws for regulating the acknowledgments of married women; but her separate property shall be liable for her own debts contracted before marriage, and for judgments recovered against her husband for her wrongs.

2. In case of desertion or abandonment by her husband, any married woman in her own name, and for her own use, may recover and receive from any person indebted or liable to her, in her separate capacity, for services performed by and debts due to her, or damages for injuries to herself, or her separate property; and no receipt, discharge, release, or commutation thereof, given or made by her husband after such desertion or abandonment, shall bar her claim; and if any suit be brought by the married woman on such account, she and her separate property shall be liable for costs of suit as in other cases.

3. When any married woman deserted by her husband, or compelled to support herself, shall acquire any property, it shall vest in her and be at her disposal, and not subject to the debts, interference, or control of her husband.

4. Nothing in the provisions of this Chapter shall affect the rights of married women to dower.

CHAPTER 115.

OF ESTATES TAIL.

Section 1.—Abolishing of estates tail.

1. All estates tail are abolished ; and every estate which would hitherto have been adjudged a fee tail, shall hereafter be adjudged a fee simple ; and if no valid remainder be limited thereon, shall be a fee simple absolute, and may be conveyed or devised by the tenant in tail, or otherwise shall descend to his heirs as a fee simple.
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CHAPTER 116.

OF BILLS, NOTES, AND CHOSES IN ACTION.

Section.

1. Bills, when liable to damages.
2. Notes negotiable.

Section.

3. What notes evidence of value.
4. Inland Bill, how accepted.

1. A Bill of Exchange drawn by a person in the Province upon, any person residing in Europe or the West Indies, returned protested, shall be subject to ten per cent. damages, and six per cent. per annum on the principal, damages and charges from the date of the protest to the time of payment. If drawn upon a person in any part of America without the Province, it shall be subject to five per cent. damages, and six per cent. per annum interest from the date of the protest to the time of payment.

2. A note in writing for money, payable to order or bearer, shall be assignable and endorsable in the same manner as an inland Bill of Exchange is by the custom of Merchants ; and the payee, endorsee, or holder thereof, may maintain an action thereon in his own name.

3. A note in writing, payable in specific articles, for a certain sum or otherwise, shall be deemed prima facie to be given for a valuable consideration as a promissory note.

4. No acceptance of any inland Bill of Exchange shall be sufficient to charge any person, unless it be in writing on such Bill, or one part thereof, if there be more than one.

CHAPTER 117.

OF JOINT TENANCY, AND TENANCY IN COMMON.

Section.

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|---|---------------------------------|
| 1. What estates tenancies in common or joint tenancies. | 2. Trust estates, how affected. |
|---|---------------------------------|

Section.

1. Every estate hereafter to be created, granted, or devised to two or more persons in their own right, shall be a tenancy in common, unless expressly declared to be a joint tenancy; but every estate vested in Trustees, or executors as such, shall be held by them in joint tenancy.

2. Any change of the Trustees in any joint estate, pursuant to the powers of the original trust, shall not sever the title, but after any such change the joint tenancy shall exist in the whole body of Trustees, with all the force and effect of such original trust.

See:

CHAPTER 118.

OF LETTERS PATENT FOR USEFUL INVENTIONS.

Section.

1. By whom granted.
2. Mode of application.
3. Specifications, &c., where lodged.
4. Powers of Executors as to deceased inventor.
5. Rights of Assignee of Provincial inventor.
6. Rights of Assignee of foreign Patentee.
7. Patents when previous Patent obtained.
8. Restriction of each Patentee.
9. Patents may be assigned.
10. Patentee claiming too much, remedy.
11. May disclaim excess.
12. Defective Patent surrendered, effect.
13. Improvement on original Patent, how secured.
14. New designs in any art or manufacture, patented.
15. English Patents, when in force in this Province.
16. Extension of term of Patent.

Section.

17. How extension obtained.
18. Copies of documents, &c., when evidence.
19. Copies of Patents, &c., how and to whom furnished.
20. Infringement of Patent rights, damages.
21. Appeal from Attorney General's decision.
22. Appointment of Board.
23. Powers and duties of Board.
24. Attorney General may apply for Board.
- Appellant may apply for Board, or appeal to a Judge.
26. Proceedings on appeal.
27. Caveat, for what filed. Proceedings on second application.
28. Letters Patent, when void.
29. False marking, &c., penalty.
30. Date of Patent, to what affixed.
31. As to pleading and costs.
32. Actions, when to be commenced.
33. Fees.

1. The Governor may grant letters patent under the Great Seal to any applicant, giving to him and his legal representatives, for a term not exceeding ten years, the exclusive right to make, use, and vend any new invention or discovery, agreeably to the provisions of this Chapter.

2. The applicant shall state in his petition the nature of his invention, discovery, or improvement, that the same was not

known or used by others before his invention or discovery, and was not then in public or common use in this Province ; the allegations in the petition he shall verify on oath to the best of his belief.

3. The petition and affidavit shall be delivered into the Provincial Secretary's Office, with a written description of the invention, discovery, or improvement ; a description of its principle, and its mode of application, in such terms as to shew its originality, and enable a skilled person to make, compound, or use it, and shall be signed by the applicant and attested by two witnesses, and accompanied with drawings, references, and a model, when the case admits of it, or if a composition of matter, with specimens of ingredients sufficient for experiment.

4. If any person entitled to a patent in this Province die before the same is granted, his executor may apply for the same for the benefit of the estate, which shall be granted upon the same conditions and restrictions as if issued to the inventor. When a petition is made by an executor, the deposition shall be varied to suit the circumstances of the case.

5. Letters patent may issue to the assignee of any person entitled thereto, for any invention or discovery made in this Province, if no previous patent has issued therefor ; the assignment shall be duly proved, accompany the application, and filed therewith, together with an affidavit of the assignee that the same was made for good consideration, and an affidavit by the assignor, as required by the second Section of this Chapter.

6. Letters patent may issue to the assignee of any patentee in any other country, or of any share thereof, if the invention or discovery shall not have been introduced into public and common use in this Province prior to the application : the assignee shall file with his application the assignment duly proved, and an affidavit of the date of the patent, and that the article has not been in public or common use within this Province, and that he is assignee for a good consideration.

7. No applicant shall be refused a patent by reason of his having a previous patent therefor in any other country, if the invention shall not have been introduced into public and common use in this Province prior to his application, but the second patent shall expire with the first one.

8. When any person shall improve upon any invention or

discovery patented, he shall have no right to make, use, or vend the original invention or discovery, nor shall the original patentee make, use, or vend the improvement thereon ; the simply changing of the form or proportions of any machine, article, or composition of matter, in any degree, shall not be a discovery or improvement within the meaning of this Chapter.

9. Every Provincial patent shall be assignable either in whole or in part, by instrument in writing, which, with every grant or conveyance of any right under any patent, shall be recorded in the Provincial Secretary's Office within three months after the execution thereof, the execution being duly proved by the oath of a subscribing witness.

10. If without fraud a patentee shall, having no legal right, claim to be the first inventor or discoverer of any material part of the thing patented when he is not, his patent shall be valid only for so much of the invention or discovery as is actually his own, if it be plainly distinguishable from the parts patented without right ; he or his legal representatives may maintain suits at law or in equity for any infringement of such part as is actually the invention or discovery of the patentee. If the plaintiff recover, he shall not be entitled to costs, unless before the commencement of the suit he shall have filed in the Provincial Secretary's Office a disclaimer of that part claimed without right, attested by at least one witness ; and no person shall be entitled to the benefit of this Section if he shall unreasonably delay recording his disclaimer.

11. If through a mistake a patentee shall claim more of the original invention than is his own, he may disclaim the excess, which disclaimer shall state his extent of interest in the patent, shall be attested by at least one witness, recorded in the Provincial Secretary's Office, and shall be part of the original specification to the extent of his interest ; such disclaimer shall not affect any action or suit pending at the time of its being recorded, except so far as may relate to the question of unreasonable delay in recording the same.

12. If any patent become inoperative or invalid from a defective description, or from the patentee claiming more than his right, and the error has arisen without any fraudulent intention, and such patent being surrendered, the Governor upon petition therefor may grant a new patent for the residue

of the term, according to the annexed description and specification. If the original patentee die, or have assigned his interest, or any part thereof, the right shall vest in his legal representatives to the extent of their interest.

13. If a patentee desire to add a description and specification of an improvement upon the original articles made or discovered by him subsequent to his patent, he may, proceeding as in the case of an original application, have the same annexed to his original description and specification; and the Provincial Secretary shall certify on the same the time of annexing and recording, and it shall have the same effect as an original patent.

14. If any person in this Province shall invent or produce any original design for a manufacture, or the printing of any material, or any original design of art or ornament, he shall be entitled to a patent exclusively to make, use, and vend the same for a term not exceeding seven years, upon like proceedings as in case of other patents.

15. No patent granted in England subsequent to the third day of May in the year of our Lord one thousand eight hundred and fifty three, and extending to the Colonies, shall be of force hereafter, until copies of the original specifications and drawings filed, or duplicates of the models lodged in England, shall be filed or lodged in the Provincial Secretary's Office, who shall give a certificate of such filing or lodging.

16. Any patentee desiring an extension of the term of his patent, shall petition the Governor in Council, setting forth the grounds of his application, depositing with the Provincial Secretary the sum of twenty pounds to defray expenses, who shall thereupon give at least sixty days notice thereof in the Royal Gazette, and at least in one Newspaper in every County wherein one may be published, of the time and place for its consideration. The Governor in Council shall appoint a Board of three persons, who shall hear cause shewn, and decide upon such application. The patentee shall furnish the Board a detailed statement in writing, under oath, of the value of his invention, its receipts and expenditures, so as to ascertain the amount of profit or loss thereupon.

17. If it shall appear to the Board, having due regard to public interest, that the term should be extended, the patentee without neglect on his part, having failed to obtain a reason-

able remuneration for the invention or discovery, they shall certify the same to the Governor, who shall direct the Secretary to endorse upon the patent a certificate of extension for a further term of seven years from the expiration of the original term. The certificate of the Board, the order of the Governor, with a copy of the endorsed certificate, shall be recorded in the Secretary's Office, whereupon the patent shall extend to all grantees and assignees thereof, to the extent of their respective interests; but no extension of the term of a patent shall be granted if applied for after the expiration of its term.

18. Copies of all papers or documents filed in the Secretary's Office, in connection with a patent under the provisions of this Chapter, certified under his hand, shall be evidence in all Courts.

19. Any person may obtain from the Secretary a copy of any paper or document filed in his office in connection with any patent.

20. If any person shall in any way infringe on the patent right of any patentee, he shall forfeit three times the actual damage occasioned by such offence, which shall be recovered with costs in the Supreme Court.

21. When application is made for a patent, and the Attorney General decides that it will interfere with any other application then pending, or with an unexpired patent, the Secretary, at the instance of the Attorney General, shall give notice thereof to the applicant, who may appeal in writing from such decision to the Governor in Council.

22. Such appeal being made, the Governor in Council shall appoint a Board of three disinterested examiners, who shall be sworn to the faithful discharge of their duty, one of whom at least shall be selected, if practicable, for his skill in the subject to which the application relates. A certified copy of the opinion and decision of the Attorney General, with the grounds thereof, specifying that part he considers ought not to be patented, shall be furnished the Board, who shall give due notice to the Attorney General, and the parties interested, of the time and place of their meeting. The Attorney General shall furnish the Board with such information as he may possess relative to the matter referred.

23. The Board shall examine on oath all witnesses produced before them, any one of the Board administering the oath; and their decision, certified in writing to the Attorney General, shall govern him in any further proceedings; but before a Board shall in any case be instituted, the applicant for the same shall pay into the Secretary's Office the sum of twenty five pounds, for the purpose of paying reasonable compensation to the examiners, and defraying incidental expenses.

24. If the Attorney General desires further evidence he shall apply for a Board, which shall thereupon be appointed, and possess the same power and functions as if appointed on appeal, but before entering upon its duties, the applicant whose case is to be considered shall pay into the Secretary's Office the sum of twenty pounds for the purposes mentioned in the preceding Section.

25. In every case of appeal the appellant may either apply for a Board, or appeal to a Judge of the Supreme Court; in case of an appeal to a Judge, he shall give notice of his intention to the Attorney General, and file in the Secretary's Office the grounds of his appeal.

26. The Judge shall hear and determine the appeal in a summary way, upon the evidence produced before the Attorney General, and appoint the time and place of hearing, due notice of which shall be given to the Attorney General, who shall notify all parties interested as the Judge shall direct; he shall also lay before the Judge the original papers and evidence, with the full grounds of his decision in writing. The Judge shall return the papers to the Attorney General, with a certificate of his proceedings and judgment, which shall be recorded in the Secretary's Office, by which judgment the Attorney General shall be governed. Such judgment shall not preclude any person interested from contesting the same in any Court where it may come in question; before making the appeal the appellant shall deposit in the Secretary's Office the sum of twenty pounds to defray the expenses thereof.

27. Any person making a discovery or invention, desiring further time to mature the same, may file in the Secretary's Office a caveat, setting forth its purpose, its principle, and distinguishing characteristics, praying that his rights may be protected; the caveat shall be filed in the Secretary's Office,

preserved in secrecy, and be in force one year. If application be made within the year by any person for a patent, which apparently will interfere with the rights of the party filing the caveat, the Secretary shall deposit the description, specification, and drawings of the applicant in his office, preserving secrecy, and give notice of the application by mail or otherwise, to the person filing the caveat, who within three months after receiving such notice, shall file his description, specifications, and drawings, or the caveat shall be void. Should the Attorney General think that the specifications interfere with each other, the like proceedings shall be had by appeal as provided by this Chapter, but the decision of the Board shall not prevent any person interested from contesting the same in any Court where the validity of a patent may come in question.

28. All patents granted under this Chapter shall be void, if the patentee shall not within three years after the granting thereof, establish in this Province the manufacture of, or introduce the article, improvement, or composition for which the same was granted.

29. Any person affixing to any article made, sold, or used by him, the name, imitation of, or fraudulent similarity to the name of any patentee of such article, without his consent ; or shall affix the words "patent," "patentee," or "letters patent," or words of similar import, on any unpatented article, for the purpose of deceiving the public, he shall for each offence forfeit twenty five pounds with costs, one half to be paid into the Provincial Treasury, the other to the prosecutor.

30. Patentees and their representatives shall stamp or affix on each patented article offered for sale, or on the vessel or package containing it, the date of the patent ; and every party offending shall for each offence forfeit five pounds, to be applied as in the preceding Section.

31. In actions brought under this Chapter, when the defendant relies on a previous invention, knowledge, or use of the article patented, the notice accompanying the plea, in addition to any other defence, shall state the name and residences of the witnesses ; if judgment pass for the defendant the plaintiff's patent shall thenceforth be void. Whenever a plaintiff fails in his action on the ground that in his specification or claim for a patent is embraced more than that of which he is the

first inventor, and it shall appear that the defendant had used any part of the invention truly specified and claimed as new, the Court may make such order as to costs as shall be equitable.

32. No action shall be sustained for any offence committed under the provisions of this Chapter, unless the same shall be commenced within six months next after the knowledge of the offence committed.

33. The fees to be demanded and paid under this Chapter shall be according to the Table of Fees established or to be established by law.

TITLE XXXI.

OF JOINT STOCK COMPANIES.

CHAPTER 119.

OF CORPORATIONS.

Section.

1. Corporations, their powers.
2. Shares may be taken on execution. Sheriff's duty. Rights of purchaser.
3. What Corporations may issue Notes and Bills.
4. Corporation, continuance of powers, &c., when.

Section.

5. Validity of contracts without seal.
6. Acts of Incorporation, from what time amendable, &c.
7. Contract of Foreign Corporation, how proved.

1. Every Corporation shall, where no other provision is specially made, be capable in its corporate name to sue and be sued, to have a common seal and alter the same at pleasure, to hold real and personal estate, to elect necessary officers, fix their compensation, and define their duties, and to make bye laws not contrary to law, for their own government, the management of their affairs, and the transfer of their stock.

2. The shares or stock of every stockholder in every incorporated joint stock Company, shall be personal estate, and liable to be seized and sold as such, but the officer executing the execution shall leave a certified copy thereof with the Clerk, Secretary, Treasurer, or Cashier of the Corporation, who shall give the Sheriff a certificate of the number of shares held by such execution debtor; and the shares therein so liable, shall be deemed seized when such copy is left, and shall

be sold within thirty days thereafter ; and on producing a bill of sale from the Sheriff, the officer of the Corporation whose duty it is to register the transfer of shares, shall transfer to the purchaser the shares so sold, which shall be valid, though the person whose stock was sold may be indebted to the Corporation, but such stock shall not be bound until the actual seizure thereof, and no fractional part of a share shall be sold.

3. No Corporation shall issue notes or bills for payment of money, or engage in banking business, unless incorporated for banking purposes.

4. All Corporations whose charters, after they shall have gone into operation, shall expire by their own limitation, or be annulled by forfeiture or otherwise, shall nevertheless be continued as bodies corporate for the term of three years after the time when they would have been so dissolved, for the purpose of prosecuting or defending suits by or against them, and of enabling them to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock.

5. The contract of the agent of any Corporation within the scope of his authority, and the acts of a Corporation, shall be valid though not authenticated by their seal.

6. Acts of Incorporation passed since the first of January 1836, may be amended or repealed at any time.

7. Upon the trial of any issue joined, when it may be necessary to prove the contract of a Foreign Corporation entered into in this Province by their accredited agent, proof that it was executed or issued by such agent shall be evidence of the execution thereof by the Corporation.

CHAPTER 120.

OF BANKING.

Section.

1. Banks, power to issue Notes.
2. Penalty, for what offences.

Section.

3. Persons prohibited from issuing Notes, &c.
4. Penalties ; application.

1. Every Bank legally incorporated in this Province, whether authorized by Charter or not, may issue notes or other evidences of debt to the amount of five, ten, or fifteen shillings, but no other fractional part of a pound.

2. Every Banking Corporation violating any of the provisions of this Chapter, shall for every offence forfeit the sum of twenty five pounds; and whoever shall receive any note or evidence of debt herein prohibited, shall forfeit a sum equal to the nominal value thereof.

3. No person shall issue or circulate as a Bank Note or currency, any bill, note, or undertaking of a private individual, for the payment of money, struck from any plate of metal, or engraved or printed, unless authorized by Law or Royal Charter, under the penalty of five pounds for each offence; but this provision shall not apply to any Notes of the Bank of Fredericton.

4. One half of the said penalties to be paid to the prosecutor, and the residue to the Overseers of the Poor of the Parish where the offence was committed.

CHAPTER 121.

OF LIMITED PARTNERSHIPS.

Section.	Section.
1. For what purposes formed.	9. Assignment, when allowed.
2. Of whom to consist.	10. Actions, by and against whom.
3. What certificate to sign.	11. Dissolution.
4. When deemed to be formed.	12. Rights and liabilities.
5. What copy to be published.	13. Dividends and profits.
6. Terms of continuation.	14. What deemed evidence of money received.
7. Liability of.	
8. Profits and responsibility of special partners.	15. Publication, where to be made.

1. Limited partnerships for the transaction of all mercantile, mechanical, or manufacturing business, except banking or insurance, may be formed by two or more persons.

2. Such partnerships may consist of two or more general partners who shall be jointly and severally responsible as partners now are by law, and also of any other persons who shall contribute to the common stock a specific sum in actual cash payments as capital, who shall be called special partners, and shall not be personally liable for any debts of the partnership, except in the cases hereinafter mentioned.

3. The persons forming such partnerships shall make and severally sign a certificate, which shall contain the name or firm of the partnership, the names and respective places of residence of the general and special partners, distinguishing

the general from the special, the amount of capital each special partner has contributed, the general nature of the business to be transacted, and the time when the partnership is to commence and terminate.

4. No such partnership shall be deemed to have been formed until a certificate made as aforesaid shall be acknowledged by the partners before a Justice, and registered in the office of the Registrar of Deeds of the County of their principal place of business; in a book to be kept for that purpose, open to public inspection; and if the partnership shall have places of business situate in different Counties, a copy thereof, certified by the Registrar of Deeds where registered, shall also be registered in such Counties; and if any false statement shall be made in such certificate, all the persons interested in the partnership shall be liable as general partners for all the engagements thereof.

5. The partners shall for three months immediately following such registry, publish a copy of the certificate above mentioned in a Newspaper published where their principal place of business is situated; if such publication be not so made the partnership shall be deemed general.

6. Every such partnership shall be held to continue on the original terms, unless the partners or any of them desire to be discharged from further liability, in which case a certificate shall be signed, acknowledged, and registered as in the first instance, declaring their withdrawal from the concern.

7. The business of the partnership shall be conducted by the general partners under such designation as they shall adopt, and if the name of any special partner shall be used in such firm, with his consent or privity, or if he shall personally make any contract respecting the concerns of the partnership, with any person except the general partners, he shall be deemed and treated as a general partner.

8. During the continuance of any such partnership no part of the capital stock thereof shall be withdrawn, nor any division of interest or profits be made so as to reduce such capital stock below the sum stated in the certificate before mentioned; and if at any time during the continuance, or at the termination of the partnership, the assets shall not be sufficient to pay the partnership debts, then the special partners shall severally be

responsible for all sums by them in any way received from such partnership, with interest thereon from the time when they were so withdrawn respectively.

9. No general assignment by such partnership, in case of insolvency, or insufficiency of assets for the payment of their debts, shall be valid unless it shall provide for a distribution of the partnership property among all the creditors, in proportion to the amount of their several claims, and notice thereof to be given in a Newspaper of the County where the business is conducted, and the creditors within forty days after such publication do not dissent thereto in writing; but debts due to Her Majesty shall first be paid or secured.

10. All suits respecting the business of such partnership shall be prosecuted by and against the general partners only, except in those cases where special partners shall be held severally responsible on account of any sums by them received from the common stock as aforesaid, or in which, by the provisions of this Chapter, special partnerships shall be deemed general.

11. No dissolution of such partnership shall take place except by operation of law, unless a notice thereof shall be registered in the same manner as the original certificate, and unless such notice shall be published for six successive weeks in some Newspaper of the County where such certificate or a copy thereof was published, according to the provisions of this Chapter.

12. In all cases not otherwise herein provided for, the members of limited partnerships shall be subject to all the liabilities and entitled to all the rights of general partners.

13. A certificate of the dividend, or interest, or profits, made from any such partnership to the special partners, shall as often as the same shall happen, be signed and sworn to by one or more of the general partners, setting forth the amount of the actual cash payments originally subscribed and paid by the special partners, and the dividend or profits and sums of money declared payable under such statement to each of all the partners, which certificate shall be registered by the Registrar of the County in which the general partners reside, or wherein the business is conducted, but no such dividend shall be declared for any period less than one year.

14. The amount of profits or dividends declared under the

certificate mentioned in the last preceding Section shall be deemed to be *prima facie* evidence of the sums of money received by the parties for the purposes of the eighth Section.

15. Whenever the publication of any notice or certificate in any *Newspaper* is required by this Chapter, and no such *Newspaper* is published as herein required, such publication shall be made in the *Royal Gazette*.

TITLE XXXII. OF DAMAGED GOODS.

CHAPTER 122.

Section.

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| 1. Damaged goods, when and how sold,
proceedings. | 2. Compensation to master and wardens. |
| | 3. Penalty for violation. |

1. All damaged goods, sold on account of the insurers, or persons interested, shall, upon the first unlading thereof, or as soon thereafter as they are discovered to be damaged, be surveyed by a Shipmaster unconnected with the vessel, and one or more of the Wardens of the Port, who shall determine if they have been properly stowed ; the sale shall be made after twenty four hours public notice thereof, in their presence, at public auction, in the most public and convenient place, between the hours of eleven in the morning and three in the afternoon, which shall only be of goods really damaged, and in such quantities at a time as they shall think best for the interest of the parties ; and the person who orders the sale shall at the time produce the original invoice of such goods as he shall direct to be sold, unless he make oath that no such invoice has come to hand, and the Master or Wardens shall give a certificate of the facts.

2. The Master and Wardens shall each receive seven shillings and six pence a day for their services, and five shillings shall be paid for every certificate, by the person at whose request the sale is made.

3. If any Auctioneer, Master, or Warden violate any of the provisions of this Chapter, he shall forfeit the sum of twenty pounds for every offence, to be paid to the Treasurer of the

County where the offence was committed. If any person shall make any sale of damaged goods, or any demand for a loss, without complying with the provisions of this Chapter, he shall forfeit double the value of the goods.

TITLE XXXIII.

OF FRAUDS AND PERJURIES.

CHAPTER 123.

Section.

1. What promises, &c., binding.
2. Contracts for goods, when binding.
3. Representation, &c., when binding.
4. Infant's promise, how ratified.
5. What leases to be in writing.

Section.

6. Interest in lands, how assignable.
7. Declarations of trust, when binding.
8. Grant or assignment of trust, when.
9. Execution, when goods bound by.
10. When heir not chargeable.

1. No action shall be brought to charge an executor or administrator upon any special promise to answer damages out of his own estate; or to charge any person upon any special promise to answer for the debt, default, or miscarriage of another; or to charge any person upon any agreement made upon consideration of marriage, or upon any contract, or sale of lands, or of any interest therein, or upon any agreement that is not to be performed within one year from the making thereof; unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person authorized by him.

2. No contract for the sale of any goods, wares, or merchandise, for the price of ten pounds or upwards, shall be good unless the buyer accept and receive part of the goods so sold, or give something in earnest to bind the bargain, or in part payment, or unless some note or memorandum in writing of the bargain be made and signed by the party to be charged thereby, or his agent, whether such goods are actually made or ready for delivery, or are intended to be made or delivered, or both, at some future time, or not.

3. No action shall be brought to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade, or dealing of any other person, to enable such other

person to obtain money or goods upon credit, unless such representation or assurance be made in writing, signed by the party to be charged therewith.

4. No action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age of any promise or simple contract made during infancy, unless such promise or ratification be made by some writing signed by the party to be charged therewith.

5. All leases, estates, or other interests in lands, not put in writing, and signed by the parties, or their agents thereunto lawfully authorized by writing, shall have the force of leases or estates at will only, except leases not exceeding the term of three years.

6. No interest in lands shall be assigned, granted, or surrendered, unless it be by deed or note in writing, signed by the party assigning, granting, or surrendering the same, or by his agent thereunto lawfully authorized by writing, or by act and operation of law.

7. No declaration or creation of any trust in lands shall be valid, unless it be in writing signed by the party entitled to declare or create the trust, or by his last will; except trusts arising or resulting by implication or construction of law, or which may be transferred or extinguished by act or operation of law.

8. No grant or assignment of any trust shall be valid unless it be in writing, signed by the party granting or assigning the same, or by his last will.

9. No writ of execution shall bind the goods of the party against whom it is sued forth, but from the time it is delivered to the Sheriff to be executed, who shall endorse thereon the day of the month and year he received it.

10. No heir who shall become chargeable by any trust made assets in his hands, shall, by reason of any pleading or judgment, be chargeable to pay the condemnation out of his own estate; the execution shall be issued against the estate so made assets, in whose hands soever it shall come after the writ issued, in the same manner as by the common law.

TITLE XXXIV.

OF PROCEEDINGS IN SPECIAL CASES.

CHAPTER 124.

OF INSOLVENT CONFINED DEBTORS.

Section.

1. Who may apply for weekly support. Proceedings.
2. Discharge, effect of.
3. Who may take examination.
4. When one Justice to act.
5. Who not liable for an escape.
6. Who may issue subpoenas. Witnesses' duty.
7. When debtor may sell his property, &c.
8. When order may be suspended, &c.
9. When Supreme Court may grant relief.

Section.

10. When debtor discharged after support.
11. Creditor, &c., discharging debtor, effect of.
12. Discharge of debtor, who indemnified.
13. Limits, when allowed. Bond assignable, how. Relief of obligors.
14. New limit bond, when demandable.
15. Property, debtor allowed to retain.
16. When Sheriff not liable, plea, &c.
17. Render of debtor.
18. Power of the Mayor or Recorder of the City of Saint John.

1. Any person confined in gaol or on the limits in any civil suit, unable to obtain his support, may apply to a Judge of the Supreme Court, or Justice of the Inferior Court with any Justice of the Peace, for weekly support, and on seven days notice to the opposite party or his attorney, he shall be examined before such Judge or Justices on oath as to his ability to support himself; if satisfied that such person cannot support himself by labour or otherwise, that he has no property real or personal, that since he was served with the first process in this suit he had not directly or indirectly transferred any property real or personal, intending to defraud the person at whose suit he is confined, or given any undue preference, such Judge or Justices shall make an order for payment by the suitor of five shillings per week to the debtor, the first payment to be made as may be directed; on failure of payment between sunrise and sunset of the day ordered, the Judge or Justices shall by order in writing discharge the debtor from confinement as to that suit, on production of which to the gaoler the debtor shall be forthwith discharged without payment of any fees whatever.

2. No discharge under any of the provisions of this Chapter shall prevent the plaintiff proceeding to final judgment, or issuing execution against the property of the debtor, or recovering the amount of the judgment, but the person of the debtor so discharged shall be freed from arrest for the same cause. The examination mentioned in the preceding Section shall be filed in the office of the Clerk of the Court out of which the process issued.

3. Should the Judge or Justices, or either of them, not attend at the time and place specified in the notice, any other person authorized to take such examination may attend in his or their stead, and proceed therewith, and grant or refuse relief under this Chapter ; an entry shall be made, in the minutes of the examination, of the same having been taken by him or them in lieu of the person or persons who issued the notice.

4. The provisions of this Chapter shall also extend to persons confined upon process in civil suits issued by a Justice, the proceedings to be had before any one Justice.

5. The Judge or Justices shall make an order in writing, directing the Sheriff or gaoler to bring the debtor before them at the time and place specified therein for examination, and such Sheriff or gaoler shall not be liable for acting in obedience to such order.

6. Either party may issue subpœnas out of the Court from which the process issued, which shall be served and the witness tendered his reasonable expenses, the person served therewith shall be liable to the same punishment and damages for wilfully disobeying the subpœna as in other cases.

7. If any confined debtor shall be possessed of property, and shall have offered to pay or assign the same to the suitor, or if there be several suitors, to them respectively in proportion to their demands, and the suitor or suitors, or either of them, refuse to accept, the person so confined shall sell by public auction, first giving seven days public notice of such sale, and also seven days notice thereof to the parties or their attorneys, and upon tender of the proceeds, and refusal by either of them to accept, he may pay the same to any creditor, or creditors, and shall then be entitled to the benefit of this Chapter.

8. When it shall be made to appear to the Judge or Justices who ordered the support, or to any other Judge or Justices, that the debtor can support himself, such Judge or Justices shall suspend such support until further order ; no order for suspending the payment of the allowance shall be made unless due notice be given to the debtor of the application for suspension, the debtor to be brought before the Judge or Justice in the manner prescribed in Section 5 of this Chapter.

9. Any person confined in any gaol, or on the limits thereof, for the space of six months in any civil suit, may apply to the

Supreme Court on affidavit for relief, notice of such application being first given to the opposite party or his attorney, who on being satisfied that the debtor has no property, real or personal, to discharge the demand in part or in whole, or means of support, and that he has applied to a Judge or Justices as aforesaid without success, the Court may in their discretion make an order either for the maintenance or discharge of such debtor.

10. Any debtor receiving such weekly allowance for the space of six months, shall then be discharged by the Judge or Justices who made the order, or any other Judge or Justices.

11. Any creditor and his representatives, may consent in writing to the discharge of their debtor from custody, without losing the benefit of the judgment and execution thereon, against the property of the debtor ; and the Sheriff, upon being served with such consent, shall forthwith discharge the debtor from custody.

12. In case of the discharge of any debtor under the provisions of this Chapter, all persons shall be indemnified, and are hereby freed from all suits and judgments whatsoever that may be had or adjudged against them by reason of such discharge.

13. When any person is or may be arrested, the Sheriff shall permit such person to have the liberty of the limits designated for such gaol, upon his giving the said Sheriff a bond with two sufficient sureties in double the amount of the sum for which he is in custody, in the following form:—

We [*here insert the names and additions of the obligors*] are jointly and severally bound unto _____, Sheriff of _____, in the sum of _____, to be paid to the said Sheriff.—Sealed and dated this _____ day of _____, A. D. 18 _____.

Whereas the said Sheriff hath permitted the said _____, being in his custody at the suit of A. B., to have the liberty of the limits of the gaol of _____ County;

Now the condition of the above obligation is, that if the said _____ shall not go out of the said limits, or escape at any time while he has such liberty, then this obligation to be void, otherwise to be in force.

*Signed, Sealed, and delivered }
in presence of }*

{ For which bond the Sheriff shall receive five shillings and no more ; and the Sheriff or his Deputy, at the request of the plaintiff or his attorney, shall assign the same to the plaintiff in the action by endorsement under his hand and seal ; the plaintiff may, if the bond be forfeited, bring an action thereon in his own name. The Court where the action is brought may give such relief to the parties as is agreeable to justice, and the same shall have the effect of a defeasance to the bond.

14. Should the Sheriff, or his successor, require a new bond from any debtor on the limits, the same shall be given by the debtor as if he were in actual custody, and on neglect, such Sheriff, or his successor, may commit such debtor to gaol.

{ 15. The possession by the debtor of wearing apparel and bedding, kitchen utensils, and tools of his trade or calling to the value of fifteen pounds, shall not prevent him having the benefit of this Chapter, nor shall the same be taken in execution.

16. No Sheriff or gaoler shall be liable to an action for acting in obedience to any order made under the provisions of this Chapter. If sued he may plead the general issue and give such order in evidence, nor shall he be liable to an action of escape for liberty granted to any debtor under the provisions of this Chapter, unless the debtor go beyond the limits.

17. Any debtor having the liberty of the limits may render himself, or be rendered by his surety, to prison, in discharge of the limit bond.

18. The Mayor or Recorder of the City of Saint John shall carry into execution, in the City and County of Saint John, the several provisions of this Chapter.

CHAPTER 125.

OF ABSCONDING, CONCEALED, OR ABSENT DEBTORS.

Section.

1. When Warrant may issue.
2. When Supreme Court may appoint Commissioners.
3. Absent debtor, how proceeded against.
4. Judge to file affidavit, &c.
5. Sheriff taking property by mistake ; proceedings.
6. Decision of Jury, when conclusive, &c.
7. When notice to be given. Perishable property, how disposed of.
8. Paying debts, &c., after notice, effect of.
9. When transfer void.
10. Petition by debtor ; proceedings.

Section.

11. Trustees, appointment of.
12. Supersedeas allowed, when.
13. Trustees, notice of appointment.
14. In whom debtor's estate shall vest.
15. Concealing effects of debtor, punishable, how.
16. Persons discovering concealed property entitled to reward.
17. Duty of Trustees as to Accounts and disputes.
18. Duty of Trustees as to estate, meetings of creditors, and dividends, &c.

Section.

19. Creditor neglecting first distribution,
how to proceed.
20. Foreign creditor's rights.
21. Duty of Trustees as to books, &c.

Section.

22. Plea, &c.
23. False swearing, effect of.

Schedule.

1. If any person indebted in the sum of ten pounds above all discounts, shall depart from or keep concealed within this Province, with intent to defraud his creditors, the creditor may make the affidavit (A); the departure or concealment of the debtor to be verified by affidavit under oath, of two witnesses to the satisfaction of a Judge of the Supreme Court, or Commissioners, whereupon he shall forthwith issue his Warrant (B) to one or more of the Sheriffs; and any such Sheriff to whom it shall be delivered, shall forthwith execute the same, and deliver the property or the proceeds of what may be sold to the Trustees, and the warrant on delivery to the Sheriff shall have the like priority as any execution on a judgment in the Supreme Court.

2. The Supreme Court, without fee, may appoint for every County two Commissioners, who after being sworn to perform their duty, the oath to be endorsed on the Commission (C) may, in the absence of a Judge, receive the application by affidavit, and issue the warrant in the name of a Judge of the said Court with the same effect as if issued by him. The Commissioners issuing the warrant, shall forthwith transmit the examination and proof to such Judge, with a memorandum of the date of its issue.

3. The estate of any person indebted as aforesaid, departing from or residing out of the Province after the debt was contracted, and after an absence of six months next preceding the application, may be proceeded against by the creditor, or his attorney, in like manner as nearly as possible as absconding or concealed debtors, except that such departing or absence may be proved by one witness.

4. The Judge shall file the affidavit within thirty days after the taking thereof, and the warrant and return thereon, within the like time after such return, with the Clerk of the Court, who shall mark on the affidavit and warrant the time of filing each respectively.

5. If any such Sheriff shall through ignorance take property claimed by any other person, he shall summon a jury of twelve persons to try the right thereof, and shall deliver the property

according to the verdict, and in such case shall not be liable to any prosecution for the taking ; the costs and charges to be paid by the Trustees out of the estate of the debtor, on the certificate of a Judge, if the jury find the property in the claimant. If the verdict be otherwise, the Trustees shall recover their costs, charges, and expenses from the claimant, by an action at law.

6. The decision of the jury shall be conclusive, unless the unsuccessful party shall within six days after the inquisition, give notice in writing to the Sheriff to the contrary, and shall commence his action within three months. Such inquisition shall be returned under the hands of the Sheriff and jury taking the same, and by him filed in the Court out of which the warrant issued.

7. The Judge who issues the warrant shall immediately thereafter order Notice (D) to be given in the Royal Gazette, and may direct all perishable property seized to be sold, and the proceeds paid over to the Trustees when appointed, to be applied to the benefit of the estate.

8. If any person indebted to or having the custody of any property of an absconding, concealed, or absent debtor, shall after the first public notice as aforesaid, pay any debt, or deliver any such property to any person but the Trustees, he shall be deemed to have acted fraudulently, and shall be liable to answer the same, or the value thereof, to the Trustees when appointed, for the benefit of the estate ; and if any such person be sued by the debtor, or by his procurement, he may plead the general issue and give the special matter in evidence.

9. After such public notice all sales and conveyances, powers of attorney, and all other acts by such debtor affecting such estate, shall be void.

10. Before the appointment of Trustees, the debtor may by Petition (E), apply to the Judge who issued the warrant, verifying the same on oath, who may make an order directing the parties and their witnesses to appear before him, that he may hear and determine the matter in a summary way. If any witness neglect to appear, on proof of the service of the order and payment or tender of his expenses, the Judge may grant an Attachment (F) against him ; upon hearing the parties he shall grant a supersedeas of the warrant or dismiss the

application, and he may award costs to the successful party, to be recovered by attachment. If he grant the supersedeas, and certify that there was probable cause for the proceeding, and no malice, the same shall be a bar to any action against the creditor.

11. If the debtor do not return within three months after such notice and satisfy his creditors, or such warrant shall not have been superseded, any Judge may appoint (G) three or more fit persons to be Trustees for all the creditors, who shall be sworn to the faithful discharge of their duty ; the Oath (H) to be endorsed on the appointment ; and also grant the allowance (I) thereon, which shall be the authority to any Registrar of Deeds of the County where lands or goods may be seized, to register the same ; such appointment received, or certified copy thereof, shall be conclusive proof in all Courts that the facts and proceedings previous thereto were true and regular.

12. If the debtor return within the time limited aforesaid, and satisfy the creditors who shall have filed their respective claims with the attorney of the creditor who instituted the proceedings, the same being satisfactorily proved to a Judge, he shall grant a supersedeas to such warrant.

13. The Trustees on their appointment shall forthwith cause public notice thereof (K) to be given in the Royal Gazette.

14. The estate of such debtor, shall from the time of such public notice in the Royal Gazette ordered by the Judge, vest in the Trustees when appointed, and they shall take the same into their hands, with all evidences relating thereto, and sue for and recover the same in their own names, and after fourteen days notice of time and place of sale, shall sell by public auction all such estate, and execute all conveyances necessary to perfect such sales.

15. Any person having or concealing any debt due, or property belonging to the estate, and not delivering a just account thereof to the Trustees according to their notice, shall forfeit in any such case double the amount of such debt, or double the value of such property, which forfeiture may be recovered by them and shall be a part of the estate. The Judge issuing the warrant, on application of the Trustees, may by order compel any person concealing or suspected of concealing any such debts or property, to appear before him for examination

on oath touching the premises, and may upon refusal to answer or obey the order of such Judge, commit him.

16. Any person other than those mentioned in the next preceding Section, who shall discover any concealed property of such debtor, so that it may be recovered by the Trustees, shall be entitled to ten per cent. on the value thereof, to be paid by the Trustees out of the estate.

17. The Trustees, or any two of them, may adjust all accounts and matters between the debtor and his debtors or his creditors, and may examine on oath any person respecting the same; and if any dispute arise between any of them in either case, the same may be submitted to two disinterested arbitrators, one to be chosen by each party, and if they disagree they may choose an umpire, whose decision shall be final.

18. The Trustees shall convert the estate into money, and within eighteen months from their appointment, by a three months' notice in the Royal Gazette, call a general meeting of the creditors to examine and pass the accounts of the estate, which may be adjourned as often as necessary; and when passed, making allowance for all legal charges and commissions, shall distribute the residue without preference among the creditors, in proportion to their respective demands, including therein debts not then due on rebate of interest. If the whole estate be not settled, the Trustees, in one year thereafter, shall make a second dividend in like manner of all monies received by them after the first division, and so on from year to year until the estate shall be closed; any remaining surplus shall be paid to the debtor, or party legally entitled thereto.

19. If after the first, and before the second distribution, any creditor whose account or claim was not then filed and passed, shall procure the same to be passed, he shall be paid whatever proportion he would have been entitled to on the first distribution, as if his account had been previously passed, the same to be deducted from the funds then in hand, and the residue to be distributed among all the creditors, and the Trustees shall proceed in like manner until the estate is closed.

20. Any creditor residing out of the Province shall be entitled to all the benefits of this Chapter; and the attorney of such creditor, producing a power from him, duly authenti-

cated, with legal proof of the debt, may in all respects act for such creditor as if he were personally present.

21. The Trustees shall keep a book containing a true account of all moneys received and disbursed by them, and of their proceedings, to be open to the inspection of every creditor. The Trustees to be subject to such orders touching the estate as the Judge may at any time make, and shall render to him a copy on oath of such accounts and proceedings, to be filed with the Clerk of the Court of which he is Judge, for the information of all persons concerned, he making such order thereon as is reasonable and just, not inconsistent herewith. The Trustees may retain for their services five per cent. on the whole sum by them received before each dividend, besides all necessary disbursements; and when such accounts are satisfactory to the Judge, he shall, by order, discharge the Trustees from their appointment, and all liabilities connected therewith.

22. If any person be sued for any thing done in pursuance of this Chapter, he may plead the general issue, and give the special matter in evidence, and this Chapter shall receive a liberal construction in favour of the creditors.

23. Any person examined under the provisions of this Chapter, wilfully swearing falsely, and being convicted thereof, shall be liable to the penalties of wilful and corrupt perjury.

SCHEDULE.

(A)

Affidavit.

In the Court.

A. B. of in the County of [Merchant,] maketh oath and saith that C. D. of in the County of [Trader,] is indebted to him, over and above all discounts, in the sum of pounds, and that he believes that the said C. D. is either departed the Province, or concealed within it, with intent to defraud him and other creditors (if any) of their just dues, or to avoid being arrested by process of law.

Sworn to at this }
day of A. D. 18 } A. B.

M. C. a Commissioner, &c. Supreme Court.

(B)

Warrant by a Justice of the Supreme Court.

By , Judge of the Supreme Court.

To the Sheriff of .

You are hereby commanded to attach, seize, and keep all the estate, real and personal, of [Trader,] in your Bailiwick, with all evidences, books of account, vouchers, and papers relative thereto, and deliver the same to the Trustees when appointed, and with the aid of two competent men forthwith make an inventory of the estate and effects that you shall so seize, and return the same to me (*or if by a Commissioner,* to the said Justice,) signed by you and them, with this warrant forthwith.—Dated this day of A. D. 18 .

*J. C. J. S. C. or
C. if by a Commissioner.*

(C)

[L.S.] *Commission.*

We do hereby nominate and appoint _____ of _____, and
of _____, to be Commissioners for the purpose of
taking examination of persons applying for warrants against
absconding, concealed, or absent debtors' estates, and proceed-
ing thereon according to law.—Dated this _____ day of
A. D. 18 _____. W. C. Clerk.

Affidavit endorsed on Commission.

(D)

Notice to be published in the Royal Gazette.

Notice is hereby given, that upon the application of , I have directed all the estate as well real as personal of , in of , an absconding, concealed, or absent debtor (*as the case may be*) to be seized, and unless he return and discharge his debts within three months after publication hereof, such estate will be sold for the payment thereof.

**J. C. J. S. C. or
C. if by a Commissioner.**

(E)

Petition of Debtor for Supersedeas.

To His Honor Mr. Justice

The Petition of A. B. of [Trader] humbly sheweth,—

That your petitioner is resident within this Province, and that he was not at the time the warrant issued to the Sheriff of , to attach and seize his estate and effects, nor within thirty days preceding, nor at any time since, an absconding or concealed debtor, and he therefore prays that the same may be heard and determined by the Supreme Court. And as in duty bound will ever pray.—Dated this day of
A. D. 18 .

A. B.

YORK, *to wit.*—Personally appeared before me the undersigned, this day of , A. D. 18 , A. B. the above petitioner, and made oath to the truth of the allegations in the above petition.

W. C. *Com. for Affidavits.*

(F)

Attachment.

VICTORIA, &c.—To the Sheriff of Greeting:

Attach , and bring him before me to give evidence on the petition of , an absconding (*or absent*) debtor, praying for a supersedeas.—Dated this day of , A. D. 18 .
J. C.

(G)

Appointment of Trustees.

I do hereby nominate and appoint , of , [Merchant] , of , [Merchant] and , of , [Merchant] Trustees for all the creditors of the estate and effects of A. B. late of , [Merchant] an absconding or concealed debtor.—Dated this day of , A. D. 18 .
J. C. J. S. C.

(H)

Oath endorsed.

YORK, *to wit.*—Personally appeared before me this day of , A. D. 18 , the within named Trustees, and

made oath that they would faithfully discharge the duties of Trustees for all the creditors of the estate and effects of A. B. late of , [Merchant] an absconding or concealed debtor, according to law, and to the best of their ability.

J. C. J. S. C.

(I)

Endorsement on Appointment.

I do allow the within appointment to be registered in the office of the Registrar of Deeds for any County where land or goods of the debtor are or may be found.—Dated this day of , A. D. 18 .

J. C. J. S. C.

(K)

Notice of appointment of Trustees to be published in the Royal Gazette.

Public notice is hereby given, that we, the undersigned, have been duly appointed Trustees for all the creditors of the estate and effects of A. B. late of , an absconding (or absent) debtor (*as the case may be*) and have been duly sworn. All persons indebted to the said A. B. will, on or before the day of next, pay to us, or either of us, all sums of money they owe to the said A. B.; and all persons having any effects of the said A. B. in their hands or custody, will deliver the same to us, or either of us, as aforesaid; and we require all the creditors of the said A. B. on or before the day of , A. D. 18 , to deliver to us, or some one of us, their respective accounts and demands against the said A. B., that justice may be done to the parties.—Dated this day of , A. D. 18 .

L. M.
O. P. }
Q. R. } Trustees.

CHAPTER 126.

OF LANDLORD AND TENANT, AND REPLEVIN.

Section.

- 1. Distress for rent, proceedings thereon.
- 2. Goods distrained, how taken care of.
- 3. Arrears of rent, when distrainable by the landlord, &c.

Section.

- 4. Goods removed from premises, distrainable, when.
- 5. Such goods, if secured in a building how distrained.

Section.

6. Pound breach and rescue, remedy for.
7. Irregularity in conduct of distress, effect of.
8. Goods liable to rent, taken in execution, duty of officer.
9. Replevin action, for what maintainable.
10. Actions of replevin in Inferior Court, when, where, and how removed.
11. Replevin bond to be taken, by whom; how assigned.
12. When property claimed, duty of officer, and proceedings.
13. When bond may be assigned to claimant.
14. When summary costs only allowed.
15. What pleading allowed, &c.
16. When defendant shall have damages and costs. When goods vest in plaintiff.
17. Sheriff's fees.
18. Landlord to recover for use and occupation, when.

Section.

19. Rent in arrear on demise for life, how recoverable.
20. When and how mortgagee may make tenant of mortgagor his tenant.
21. Notice to quit, times of, regulated.
22. Who and when liable to double rent, and to arrest; no relief in equity.
23. Actions against landlord or bailiff, plea, &c.
24. When landlord may proceed by ejectment, and what recover, &c.
25. When injunction not allowed; if equity proceeding, how accountable.
26. How and when tenant and his assignee may stop suit.
27. Summary relief to landlord, how & when.
28. Removal of proceedings.
29. Costs.
30. Proceedings quashed, effect of.
31. Fees established.

Schedule.

1. When goods are seized by distress (A) for any rent due, and the tenant or owner of such goods shall not, within five days next after such distress, and notice thereof (B) left at the dwelling house, or other most conspicuous place charged with the rent, replevy the same according to law, the person distraining shall, with the Sheriff or constable of the County, who is required to assist, cause the goods to be valued by two sworn appraisers, to whom such officer shall administer the oath (C) to be endorsed (D) on the inventory, and after such appraisement (E) shall publicly sell such goods for the highest price, to satisfy such distress, with the charges, leaving the overplus (if any) in the hands of the officer for the owner's use.

2. Goods taken by distress for rent may be impounded and secured on a convenient part of the premises, and disposed of as in other cases of distress for rent. All persons shall have free access to the premises in any matter connected with the distress.

3. Arrears of rent may be distrained for by the landlord or his representatives within six months after the determination of the lease, and during the tenant's possession and landlord's interest.

4. Goods fraudulently or clandestinely removed from the lands of any tenant to avoid a distress, may be followed by the landlord within thirty days thereafter, be distrained for such rent, and disposed of as in other cases of distress for rent; no goods shall be distrained that have been sold bona fide and for valuable consideration before such seizure.

5. Goods fraudulently or clandestinely removed as aforesaid, and placed and secured in any building or close to prevent a distress, may be distrained by the landlord or his agent, with the aid of a Sheriff or constable, who is required to assist; and if in a dwelling house, oath being made of a reasonable suspicion that the goods are therein, he may in the daytime break open the same.

6. Upon any pound breach or rescue of goods distrained for rent, the person injured shall, in an action on the case, recover treble damages, with costs, against the offender, or against the owner of the goods distrained, if the same come to his use and possession.

7. Any irregularity in conducting a distress where rent is justly due, shall not make the distrainor a trespasser, but the party injured may recover damages therefor, unless a tender of sufficient amends be made before action brought.

8. When goods liable to rent shall be taken in execution, and the arrears, not exceeding one year, shall not be paid to the landlord, the officer shall proceed to the sale thereof, and from the proceeds pay such rent, and apply the residue to the satisfaction of the execution; but the Queen's rights shall not be affected.

9. The action of replevin, whether for the unlawful taking or detaining of any goods or chattels, shall and may be prosecuted by Writ (F) issued out of the Supreme or Inferior Courts, and the Sheriff at the time of seizing the goods, shall serve the party in possession with the copy thereof, which service shall be effected as in all other cases of non-bailable writs, to which he may appear, and neglecting so to do, the plaintiff may proceed as in personal actions.

10. When the title to lands shall come in question, or the Queen be a party, or the distress be taken in right of the Crown, no further proceedings shall be had in replevin in the Inferior Court, but the same shall be removed by certiorari into the Supreme Court by the party who wishes to proceed, and shall be there heard and determined.

11. The Sheriff having any writ of replevin shall, before the execution thereof, take a Bond (G) with two sureties in double the value of the goods replevied, which bond he shall, upon request of the defendant, assign to him by endorsement.

(H); on such bond being forfeited and so assigned, the assignee may bring an action thereon in his own name.

12. In all actions of replevin, if the defendant, or any person claiming the property, do within forty eight hours after seizure and the service of such writ, give notice to the officer executing the same, that he claims (I) property in the goods so seized, he shall not deliver the property to the plaintiff, but shall forthwith return the writ with the claim endorsed thereon, and the plaintiff shall then issue a writ de proprietate probanda (K) under which the Sheriff shall summon a jury to try such claim, giving each party six days notice of the time and place, unless they consent to an earlier day. If the first or any subsequent jury should by their inquisition (L) find the claim good, he shall deliver the goods seized to the claimant; but the plaintiff may proceed and recover for his damages for the property in the same suit, in such form as he may think fit; if the jury find for the plaintiff, the Sheriff shall deliver the goods to him, and return the writ and inquisition to the attorney, who shall file the same in the Clerk's office. Nothing herein shall prevent the defendant or claimant from appearing to such action, and pleading property.

13. If a verdict be found for the claimant under the writ de proprietate probanda, the bond shall be forthwith assigned to him, and he may recover all actual costs and expenses by him incurred in prosecuting his claim, and such damages as he may have sustained by reason of said writ of replevin, and the proceedings thereon.

14. In any action on such bond, when the penalty exceeds twenty pounds, if the plaintiff recover less he shall be entitled to costs as in actions not summary.

15. The defendant in replevin may, under the general issue, give in evidence that the plaintiff, or other tenant of the lands whereon such distress was made, enjoyed the same under a grant or demise, at such a certain rent, during the time the rent distrained for was incurred, which was then and still is due, without setting forth further particulars. If the plaintiff discontinue, or have judgment against him, the defendant shall have double costs.

16. If upon the trial any issue be found for the defendant, entitling him to a return of the goods, or any part thereof, the

jury may give damages (M) to the defendant, who may enter up his judgment (N) with the damages and costs of suit, and may issue execution accordingly ; and where the property has not been restored, the jury on the trial of such issue, at the defendant's request, may award to him the value of the goods in damages, the same to be specifically stated in the rendering of their verdict (O). The defendant shall enter up his judgment (P) for such damages, and issue execution thereon instead of entering up judgment for return of the goods, and thereupon the right and interest in such goods shall vest in the plaintiff. The obligors in the replevin bond shall be liable for such damages and costs of suit.

17. The Sheriff to whom the writ of replevin, or writ de proprietate probanda, may be directed, shall have for executing the same, and all his doings thereunder, no other fees than are set forth in the Table of Fees.

18. The landlord, when the demise or agreement is by deed, may recover satisfaction for the lands held or occupied by the defendant in an action for use and occupation ; if on the trial such demise or agreement, wherein a certain rent was reserved, shall appear, it shall not be a ground of nonsuit, but the plaintiff may use it as evidence of the amount of damages to be recovered.

19. Any person having any rent in arrear upon any demise for life or lives may bring an action of debt therefor as on a demise for years.

20. A mortgagee may, by notice in writing, make the tenant, under a demise by the mortgagor subsequent to the mortgage, his tenant, and thereby adopt the same.

21. When any lands shall be let, requiring a notice to quit, the notice shall be as follows :—For the year or half year, three months ; for the quarter or month, one month ; and for the week, one week.

22. When a tenant, or person under or in collusion with him, wilfully remains in possession of lands after the determination of the demise, and after notice to quit (Q and R) by either landlord or tenant, if the tenancy be from year to year, and demand of possession at the expiration of the demise, the landlord may recover double the rent or yearly value of the premises in the same manner as any single rent may be re-

covered ; the party may be held to bail, and shall be without relief in equity.

23. In any action brought against the landlord, or his bailiff or agent, for any thing done under this Chapter, the defendant may plead the general issue, and give the special matter in evidence ; if the plaintiff discontinue, or judgment pass against him, the defendant shall have double costs.

24. When a half year's rent shall be in arrear, if the landlord have a right of re-entry for non-payment thereof, he may without any formal demand or re-entry proceed by ejectment for the recovery of the premises ; if the declaration cannot be served, or there be no tenant in actual possession, a copy thereof may be affixed to the door of his house, or if there be no house, then upon some conspicuous part of the premises. If there be judgment against the casual ejector, and it shall appear to the Court by affidavit, or be proved on the trial that the rent was due before the declaration was served, that no sufficient distress could be found on the premises to satisfy such rent, and that the lessor had power to re-enter, he shall recover judgment and have execution, as if the rent had been demanded and re-entry made. If the lessee or person claiming under him suffer six months to elapse after such recovery and execution executed without paying such rent with the costs of proceedings in equity, he and all claiming under him shall be barred from all relief in law or equity except by a writ of error if the judgment be erroneous, and the landlord shall hold the premises discharged from such lease ; any mortgagee of such lease or any part thereof out of possession, shall not be barred if he shall within six months after such judgment and execution executed pay all rent, costs, and damages of such lessor or party entitled to the remainder or reversion, and perform all the covenants which on the part of the first lessor ought to be performed.

25. No injunction against any proceedings at law commenced within the time aforesaid shall be allowed, unless the party entitled shall pay into Chancery in forty days from a perfect answer filed by the lessor, the money in such answer stated to be due, with the taxed costs, subject to the decree of the Court. After execution executed such lessor shall only be accountable in the equity suit for what he may bona fide make

of the premises from the time of his actual possession, and such possession shall not be restored until whatever sum may be found due the lessor (if any) shall be paid.

26. If the tenant or his assignee shall before the trial in such ejectment, pay or tender to the landlord, or pay into the Court all arrears of rent with the costs, all further proceedings in the cause shall cease ; and if such lessor, or his representatives, or assigns, upon the proceedings as aforesaid, be relieved in equity, he or they shall hold the demised lands under the said lease.

27. When any tenant shall after the expiration of his tenancy, or on due notice (Q and R) to quit being given, refuse to deliver up the possession to the person entitled thereto, such person may apply to two Justices where the premises are situate, and having made oath before them that such tenant has held and occupied the premises particularly designated in the affidavit, for a certain period then expired, and that due notice to quit, when necessary, has been given, such Justices shall issue the summons (S) giving at least six days notice, to be served with a copy of the affidavit annexed, by any constable, either personally on the tenant, or by leaving the same with some adult person of the household on the premises, to shew cause why he holds over. If the tenant neglect to attend, or attending, and no sufficient cause shewn, the Justices on hearing the parties and their evidence shall issue their warrant (T), and the Sheriff shall execute such warrant according to the exigencies thereof.

28. Should the tenant or other person interested in the premises, consider himself aggrieved by the judgment of the Justices, a Judge of the Supreme Court on the application of such tenant or other person, upon sufficient cause shewn by affidavit, may make an order to remove such proceedings before him, and upon return thereof, he shall examine into and determine the matter agreeably to justice, and make such order as may be necessary to carry into effect his decision, but such order shall suspend the execution of the judgment in the mean time.

29. In such summary proceedings the costs shall be regulated and enforced under the provisions of Chapter 156, Title XLII, and the Justices shall be entitled to receive from the prevailing

party two guineas, and include the same in the taxation of costs.

30. When such proceedings are quashed by the Judge, he shall award a writ of restitution, and the tenant or other person may, in an action on the case, recover against the adverse party any damages he may have sustained, with costs, by reason of such proceedings.

31. In cases of distress for rent, and executing writs of replevin, the fees shall be according to the Table of Fees, except where the rent due is under five pounds, when one half only of such fees shall be allowed.

SCHEDULE.

(A)

Warrant of Distress.

To Mr. J. K. my Bailiff.

Distain the goods and chattels of A. B. in the house he now dwells in (*or on the premises now in his possession*) situate at _____ in the County of _____, for _____ pounds, being [*one year's*] rent due me for the same on the _____ day of _____ last, and proceed therein according to law.—Dated the _____ day of _____, A. D. 18 .

C. D.

(B)

Inventory and Notice to be served on Tenant.

An inventory of the goods distrained by me this _____ day of _____, A. D. 18 , in the dwelling house (*or otherwise as the case may be*) of A. B. in the Parish (or City) of _____, by the authority of C. D. landlord, for the sum of _____ pounds, being one year's rent, due the _____ day of _____ last.

In Dwelling House.

Kitchen.—One table, six chairs.

In the Barn.

Two bushels of oats, one ton hay.

[*Describing the things, and where they were taken from,*] then add the following notice :—

Mr. A. B.—I have this day distrained, as bailiff to C. D. your landlord, the goods specified in the above inventory, for the rent due as therein stated, [*if the goods are secured on the*

premises insert here, and have secured the same in the stables on the premises]; unless you pay said rent, with costs of distress in five days from the date hereof, the said goods will be appraised and sold.—Dated the day of , A. D. 18 .

J. K.

(C)

Appraiser's Oath.

You and each of you shall truly appraise the goods and chattels mentioned in this inventory to the best of your skill.—So help you God.

(D)

Endorsement of Oath on Inventory.

Memorandum.—On the day of , A. D. 18 , L. M. of , and N. O. of , were sworn by me the undersigned, truly to appraise the goods and chattels mentioned in this inventory.

P. Q. Constable.

Present at the time of swearing, }
R. S. T. U. }

(E)

Appraisement on Inventory.

We the undersigned sworn Appraisers, having received the goods and chattels mentioned in this inventory, do value the same at pounds.—Dated this day of , A. D. 18 .

Witness, R. S.

L. M. }
N. O. } *Appraisers.*

(F)

Writ of Replevin in Supreme or Inferior Court.

To the Sheriff of Greeting :

You are commanded if A. B. make you secure according to law, to replevy and deliver to him the goods and chattels to wit, , which he alleges C. D. or some other person, has unlawfully taken or detained from him, and that you notify the said C. D. or such other person, that he be before us at Fredericton, (*or if in the Inferior Court*, before the Justices of the Inferior Court for the said County of , at the next Inferior Court to be holden for the County), on the Tusday in next, to answer A. B. of a plea wherfore he

unlawfully took or detained the said goods and chattels, and have then there this Writ. Witness, &c. &c.

(G)

Replevin Bond.

We [*names and additions of plaintiff and his sureties*], are jointly and severally bound unto Esquire, Sheriff of in the sum of [double the value of goods replevied], lawful money, to be paid to the said , his executors or assigns.—Sealed and dated this day of , A. D. 18 .

The condition of the above is, if the said [Plaintiff] do prosecute his suit with effect and without delay against C. D. for taking or detaining his goods and chattels, to wit: , and do return the same, if a return shall be adjudged, and do pay all such damages and costs as may be awarded to the said [Defendant], or that he may sustain by reason of the said replevin, or the proceedings thereon, then this obligation to be void, otherwise to be of force.

*Sealed and delivered }
in presence of }*

(H)

Assignment of Replevin Bond by Sheriff.

At the request of the within named , I assign this bond to him.—Sealed and dated this day of , A. D. 18 . A. B. Sheriff.

Witness, .

(I)

Notice of claim to be served on Sheriff.

To , Esquire, Sheriff of .

I claim an absolute (or special) property in the goods seized by you under writ of replevin issued by [the plaintiff] against me (or as the case may be).—Dated this day of , A. D. 18 .

L. M.

(K)

Writ de Proprietary Probanda.

To the Sheriff of County.

You are commanded to summon twelve lawful men of your bailiwick to enquire whether the goods and chattels, to wit:—

, taken by you under a writ of replevin issued by A. B. plaintiff, against C. D. defendant, are the goods and chattels of the claimant, or of the said A. B.; and if they determine that the same belong to A. B. you will deliver the same to him, otherwise deliver them to the claimant or person entitled, and make return hereof, and of the inquisition of such jury, on the Tuesday in next.

Witness, &c.

(L)

Inquisition.

to wit: Inquisition taken this day of A.
D. 18 , before me, Esquire, Sheriff of County,
by virtue of the writ annexed, upon the oath of lawful
men of the said County, who say that the property in the said
goods and chattels in the said writ named is in the said ,
and not in the said .—Sealed and dated the day and year
aforesaid.

(M)

Form of Entry of Verdict on Postea, when damages are awarded to the Defendant.

[Commence in the usual form] say upon their oaths that
they find for the defendant, and assess the damages of the said
defendant to pursuant to law, besides his costs and
charges, &c. [as in the usual form].

(N)

Entry of Judgment on the above.

Therefore it is considered that the said defendant do have
a return of his said goods and chattels, and that he do recover
against the said plaintiff his said damages by the jurors assessed,
and also for his costs and charges by the Court adjudged
of increase to the defendant according to law, and that he have
execution thereof.

(O)

Entry of Verdict on Postea when the value of the goods is assessed by the Jury.

[Commence as in first form above] and at the request of
the said defendant they further say, that the said goods and
chattels when replevied were worth which they award to

the said defendant in damages according to law, and they assess the defendant's other damages by reason of the premises to pursuant to law, besides his costs and charges, &c. [as in the usual form].

(P)

Entry of Judgment on the above.

Therefore it is considered that the said defendant do recover against the said plaintiff the said sum of , the value of the goods aforesaid by the jury assessed, and also for his said costs by the Court adjudged of increase to the said defendant, and the said damages and costs amount to , and that the said defendant have execution thereof.

(Q)

Ordinary notice to quit, Landlord to Tenant.

I require you to quit and deliver up to me my house and premises in your possession, on the day of next, situate at in the County of .—Dated this day of , A. D. 18 .

C. D.

To Mr. A. B. Tenant.

(R)

Notice to quit by Tenant.

SIR,—I shall deliver up to you on the day of next, your house and premises situate at , in the County of .—Dated this day of , A. D. 18 .

A. B. Tenant.

To Mr. C. D. Landlord.

(S)

Form of Summons by two Justices of the Common Pleas.

A. B. of , having made the affidavit required by law, we therefore require you to appear before us on the day of next, (or instant) at , to shew cause if you have any, why you should not deliver up to the said A. B. the premises described in said affidavit.—Dated this day of , A. D. 18 .

L. M. J. C. P.

N. O. J. C. P.

To Mr. C. D.

(T)

Writ of Possession and Execution.

To the Sheriff of .

Whereas A. B. claims the premises situate [*here describe the premises*] now in the possession of C. D., who holds over and refuses to deliver them up, the matter having been heard before us pursuant to law, we do adjudge that the said A. B. shall be forthwith put in possession, and shall recover his costs, being , besides your fees for executing this writ; you are hereby commanded to put the said A. B. into immediate possession of said premises, and that you levy of the goods and chattels of the said C. D. the sum of for his costs, besides your fees, and for want of goods and chattels that you take the said C. D. and deliver him to the keeper of the gaol of the said County, who will safely keep him for days, unless said costs and fees be sooner paid, and make return hereof and what you have done within days from this date.—

Dated this day of , A. D. 18 .

L. M. J. C. P.

N. O. J. C. P.

CHAPTER 127.

OF HABEAS CORPUS.

Section.

- | | |
|---|---------------------------|
| 1. Duty of persons served with Habeas Corpus. | 2. Proceedings on return. |
| Neglect, proceedings. | 3. Costs. |

1. If the person to whom any Writ of Habeas Corpus is directed, shall, upon personal service thereof, or leaving it at the place where the party is confined with the servant or agent of the person so confining, disobey the same, he shall be guilty of contempt, and the Justice before whom the writ is returnable may, upon proof thereof by affidavit, issue a warrant to apprehend and bring such person before him, or some other such Justice, that he may enter into recognizance with two sureties, to appear at the next term to answer the contempt, and in case of refusal to become bound, to commit such person to gaol, there to remain until discharged by the Court or a Judge, and the recognizance shall be filed and continue in force until the Court shall make an order therein; but if the writ shall be

awarded so late in vacation that, in the opinion of the Judge, it cannot then be executed, it may be made returnable on some day in term, and in case of disobedience thereto, the Court shall proceed in the same manner as if the writ had been awarded by the Court; if it be awarded late in the term, it may be made returnable on a day certain in vacation before any Judge of the Court, who shall proceed thereon in all respects as for writs issuing and returnable in vacation.

2. If the return of the Writ of Habeas Corpus is sufficient in law, the Justice before whom it is returnable may proceed to examine into the truth of the facts set forth therein, and into the cause of such confinement, by affidavit, and may do therein as to justice shall appertain. If the writ shall be returned before a Justice, and it appears doubtful whether the material facts set forth in the return are true, he may admit the confined person to bail to appear in the Supreme Court upon a certain day in term, which shall continue in force until the Court shall make an order therein; and the Judge shall transmit to the Court the written return, recognizance, and affidavit, and the Court shall proceed in a summary way, by affidavit, to examine into the facts stated in the return, or shall direct an issue for the trial thereof, and shall deal with the party in the meantime as may appear just; and when the writ is awarded by and returnable into the Court, the like proceedings may be had.

3. The Court or Justice shall direct the payment of the expenses of bringing up the party, and returning him to custody if remanded, and for non-payment shall award process of contempt, the proceedings to be as in other cases of contempt for non-payment of money.

CHAPTER 128.

OF ADVERSE CLAIMS.

Section.

1. Judge's order, how and for what obtained.
2. Decision of Judge, conclusive against whom.
3. What claim barred by non-appearance of third party.

Section.

4. Power of Court to rescind or alter decision of Judge.
5. Order for relief of Sheriff.
6. What to be evidence.

1. Upon an application of a defendant in any action made after declaration and before plea, by affidavit or otherwise,

shewing that he does not claim any interest in the subject matter of the suit, or that the same is claimed or supposed to belong to some third party, and that he does not in any manner collude with such third party, a Judge may order such third party to appear, and state the nature and particulars of, and maintain or relinquish his claim, and upon such order may hear the allegations as well of such third party as of the plaintiff, and in the meantime may stay the proceedings in such action, and may order such third party to make himself defendant in the same or some other action, or proceed to trial on a feigned issue, and also direct which of the parties shall be plaintiff or defendant on such trial, or with the consent of the plaintiff and such third party, may dispose of the merits of their claims, and determine the same in a summary manner, and make such other order therein as to costs, and all other matters, as may appear just.

2. The decision of a Judge in a summary manner, shall be conclusive against the parties, and all persons claiming under them.

3. If such third party shall not appear on service of the order to maintain or relinquish his claim, or shall neglect to comply with any order made after appearance, the Judge may declare him, and all persons claiming under him, to be for ever barred from prosecuting his claim against the original defendant or his executors, saving the right of such third party against the plaintiff; and thereupon may make such order between such defendant and the plaintiff as to costs and other matters, as may appear just.

4. Any such order may be rescinded or altered by the Court, and in any stage of the proceedings the Judge may refer the matter to the Court, who shall hear and dispose of the same.

5. Property which may be seized by a Sheriff under execution, and claimed by a person not being the defendant, a Judge, upon application of the Sheriff made before or after the return of the process, and before or within a reasonable time after action brought against such Sheriff, may make such order for his relief as shall be just, according to the circumstances of the case; the costs shall be in the discretion of the Judge.

6. All such orders and decisions, except only the affidavits

to be filed, may, together with the declaration in the cause, (if any) be entered on record, which shall be evidence, and secure and enforce the payment of costs directed by any such order, and shall have the force and effect of a judgment, except as to lands. If the costs shall not be paid within fifteen days after taxation and demand thereof, execution may issue therefor.

CHAPTER 129.

OF THE PROTECTION OF JUSTICES.

Section.	Section.
1. Action against Justices.	7. Prohibited actions, how disposed of.
2. Where no action will lie.	8. Notice to Justice; limitation of action, &c.
3. When not liable.	9. Tender of amends, &c.
4. When not liable for illegality in rate.	10. Proof required of plaintiff.
5. What Supreme Court may require him to do.	11. Plaintiff, when entitled to nominal damages only.
6. When not liable on a defective conviction.	12. Where plaintiff shall have costs.

1. Every action against a Justice for any official act within his jurisdiction shall be in tort, and the declaration shall allege that the act was done maliciously, and without reasonable and probable cause ; if the plaintiff fail to prove such allegations, the defendant shall have judgment ; but in any matter beyond his jurisdiction, such allegations need not be made.

2. If a warrant shall not have been followed by a conviction, or if it be upon a complaint for an alleged indictable offence, and on being summoned the party fail to appear, no action shall be maintained against the Justice for any thing done thereunder.

3. No Justice issuing a warrant bona fide founded on the conviction or order of another Justice, shall be liable for any defect of jurisdiction in the first Justice.

4. When a Justice shall issue a warrant for any rate, no action shall be brought against him for any illegality or defect therein.

5. If a Justice refuse to do any official act, the Supreme Court on affidavit may, by rule, require him to perform the same, and no action shall be brought against him for any act done in obedience to such rule.

6. When a warrant of distress or of commitment shall be granted by a Justice upon a conviction or order, which either before or after granting the warrant shall have been confirmed upon appeal, no action shall be brought against him for any

thing done thereunder, by reason of any defect in such conviction or order.

7. The proceedings in any action prohibited by this Chapter may be set aside by a Judge of the Court where brought, with or without costs.

8. No action shall be commenced against a Justice for any official act until one month at least after notice in writing of such action served upon him, or left at his usual place of abode, in which the cause of action and the Court in which it is to be brought shall be explicitly stated, and the name and place of abode of the attorney endorsed thereon. Every such action shall be brought within six months next after the cause thereof, and the venue shall be laid and the cause tried in the County where the act was committed ; and the defendant may plead the general issue, and give the special matter in evidence.

9. After notice so given, and before action commenced, the Justice may tender in money to the party complaining, or his attorney, amends for the injury complained of in the notice, and before issue joined, the defendant, if he had not made a tender, or in addition to the tender, may pay money into Court ; and the tender or payment into Court, or either of them, may be given in evidence on the trial, under the general issue. The verdict shall be for the defendant if the jury find the tender, or payment, or both sufficient, and the plaintiff shall not elect to be nonsuit. After satisfying the defendant's costs from the money paid in, the residue (if any) shall be paid to the plaintiff. If the plaintiff elect to accept the money, the same shall be paid him by the Clerk of such Court, and the defendant shall pay costs, to be taxed, to be enforced by attachment, and the action shall terminate.

10. If on the trial of any action, the plaintiff shall not prove the action brought, notice thereof given within the time limited in that behalf, the cause of action stated in the notice, and that it arose in the County where brought, he shall be nonsuit, or the verdict may be for the defendant.

11. Where the plaintiff shall be entitled to recover in any action against a Justice, he shall not have a verdict for any damages beyond two pence, or any costs of suit, if it shall be proved that he was guilty of the offence of which he was convicted, or was liable for the sum he was ordered to pay, or

had undergone no greater punishment than that assigned by law for the offence of which he was convicted, or for the non-payment of the sum he was ordered to pay.

12. If the plaintiff recover a verdict or obtain a judgment by default, he shall recover costs.

CHAPTER 130.

OF THE PROTECTION OF CONSTABLES.

Section.

1. What necessary before action brought.
2. When defendant shall have judgment.

Section.

3. Limitation of action.
4. What constable, &c. may plead.

1. Before any action shall be brought against a constable or other officer, or person acting in his aid, for any thing done in obedience to a warrant of a Justice, a demand in writing of the perusal and copy of such warrant, signed by the person making the same, shall be served upon him personally, or left at his usual place of abode for the space of six days.

2. If after such demand, and a compliance therewith, an action be brought against any such person, without making the Justice a party thereto, on the proof of such warrant upon the trial, judgment shall be given for the defendant notwithstanding any want of jurisdiction in the Justice. If the action be brought against any such person jointly with the Justice, then on proof of such warrant, judgment shall be given for the constable.

3. No action shall be brought against any such person unless the same be commenced within six months next after the cause of action.

4. In an action brought against any such person for any thing done in the discharge of the duties of his office, such person may plead the general issue, and give the special matter in evidence.

CHAPTER 131.

OF THE OFFICE OF SHERIFF.

Section.

1. Sheriff's, appointment.
2. Term of office, bonds, &c.
3. Bonds assignable, and actions thereon.
4. Recovery, and further proceeding.
5. His deputies, and liability for their acts.
6. Residence of Sheriff.

Section.

7. Retaining money, liability.
 8. Payment for service of process.
 9. Who liable for fees.
 10. Justices in Session to allow Sheriff for certain services.
- Schedule.

1. The Sheriffs of the several Counties, except the Sheriff of the City and County of Saint John, shall be appointed by the Governor in Council in the month of March in each year, but nothing shall prevent the appointment of a Sheriff at any other time when necessary from death or other cause. In case of his death the Coroner to discharge the duties during the vacancy of his office.

2. Every Sheriff shall remain in office until another be appointed and sworn in, and shall, upon his appointment, execute the Bonds (A and B) respectively, with two sufficient sureties in each bond, to be approved of by the Governor; should the bonds not be approved of within one month from the appointment, another person may be appointed to fill the office, executing similar bonds with the like sureties.

3. Any person who shall recover a judgment against a Sheriff for a breach of the duties of his office, or those of his deputy, and upon a return of *nulla bona* to a writ of *fieri facias* issued into the County in which he resides, may forthwith apply to the Supreme Court, or a Judge thereof, who shall, upon a satisfactory affidavit, grant an order that such person may bring an action upon the Bond (B) in his own name in the said Court; a certified copy of such bond under the hand of the Provincial Secretary, with whom the same shall be lodged, shall be good evidence of the original bond without its production; but no action shall be brought upon the bond unless within one year from the signing of such judgment.

4. A recovery may be had upon the bond to the amount of such judgment, with costs, which recovery with costs shall be a satisfaction of the bond for so much. When a subsequent order shall be obtained, at the instance of any other party, for putting the bond in suit, the like recovery may be had with costs, but not in the whole to exceed the penalty, and so on as often as necessary.

5. A Sheriff may, and in all cases where necessary the Government may direct him to appoint deputies, but he shall take security for the faithful performance of their duties, and their appointment shall be immediately published in a Newspaper of the County where the Sheriff resides, and if there be none, then in the Royal Gazette, and such Newspaper shall be sufficient evidence of such appointment; but no person

shall act as Deputy Sheriff until he shall have given security, and his name have been published as aforesaid.

6. Where the Sheriff may be permitted to reside out of the Shire town, he shall keep a deputy resident there, and an office as near the Court House as can be conveniently; to be open at all reasonable times for the transaction of business.

7. If a Sheriff, or his deputy, shall retain money received by him under any process, after demand thereof by the party entitled thereto, such Sheriff shall forfeit to such person one shilling on the pound for every month he shall retain the same after demand, to be recovered by action of debt in any Court of Record, but no action shall be brought unless within three months after such demand.

8. No person shall be paid for executing any process, mesne or final, unless it be the Sheriff or his deputy.

9. The attorney who issues the process, as well as the plaintiff, shall be severally liable to the Sheriff for executing the same.

10. The Justices in Session shall allow the respective Sheriffs summoning Grand and Petit Juries for the year, such reasonable compensation, not exceeding twenty pounds, as they may deem proper, to be paid by order on the County Treasurer.

SCHEDULE,

(A)

Know all men by these presents; that we of in the County of , and of in the County of , are bound unto the Queen in the sum of one thousand pounds, to be paid to Her, for which payment to be made we jointly and severally bind ourselves, our heirs, executors, and administrators; by these presents.—Sealed with our seals. Dated the day of , A.D. 18 .

Whereas the above bounden has been duly appointed Sheriff of the County of

Now the condition of this obligation is such, that if the said shall well and faithfully discharge the duties of the office of Sheriff of the said County of during his continuance in the said office, then this bond to be void; or else to remain in force.

Signed, Sealed, and delivered }
in presence of }

(B)

Know all men by these presents, that we of in the County of , and of in the County of , are bound unto the Governor in the sum of five hundred pounds, to be paid to him, for which payment to be made we bind ourselves jointly and severally, our heirs, executors, and administrators, by these presents.—Sealed with our seals. Dated the day of , A.D. 18 .

Whereas the above bounden has been duly appointed Sheriff of the County of (*or of the City and County of , as the case may be*), for the year ending on the day of March ensuing the date of this obligation;

Now the condition of this obligation is such, that if the said Sheriff, his executors, or administrators, shall pay all moneys and damages that may be recovered against him, for any breach of the duties of his said office by him, or his deputy, during the said year, then this bond to be void, or else to remain in full force.

*Signed, Sealed, and delivered }
in presence of }*

CHAPTER 132.

OF CORONERS' INQUESTS.

Section.

1. Post mortem examination, how and when directed.
2. When jurors may name medical practitioner. Consequence of neglect of Coroner.
3. Fees of the medical practitioner, how paid.

Section.

4. Medical officer of public institution to receive remuneration, what for.
5. Medical practitioner refusing to attend, fine. Recovery.
6. Permissive warrant.
7. When granted without inquest.
8. Fees, how paid

1. The Coroner, in all cases where he may deem it necessary before holding an Inquest, shall issue a summons to any legally qualified medical practitioner who may have attended the person deceased at or immediately before his death; if none such attended, then to any practitioner in practice at the time, near the place where the death shall have happened, requiring his attendance as a witness, and at any time before the holding or termination of the Inquest, may direct a post mortem examination to be made; but if any person shall state upon oath before the Coroner, that in his belief the death was

caused partly or entirely by the improper or negligent treatment of any medical practitioner, or other person, such person shall not be allowed to make or assist at such examination.

2. When a majority of the jurors are of the opinion that the cause of death has not been satisfactorily accounted for in the first instance, they may name in writing to the Coroner or Justices holding the Inquest, any other medical practitioner as a witness, to make a post mortem examination, whether one has been made before or not, and he shall be summoned by the Coroner or Justices, who refusing to summon such witnesses shall be deemed guilty of misdemeanor, and punished accordingly.

3. Any medical practitioner attending as a witness shall be paid according to the Table of Fees, out of the funds of the County Treasurer where the Inquest is held, on the order of the Coroner, but no payment shall be allowed unless the post mortem examination shall have been directed by the Coroner or jurors.

4. When an Inquest shall be held on the body of any person dying in any public institution, the medical officer of such institution shall not be entitled to receive any remuneration, except for a post mortem examination, and attendance to give evidence thereon, if required as aforesaid.

5. Any medical practitioner who shall, without sufficient cause, refuse to attend on any summons, shall forfeit five pounds, to be recovered before a Justice on complaint of the Coroner, or any two of the jurors, if made within two months from the holding of the Inquest, and be paid, when recovered, to the County Treasurer.

6. After any such Inquest, the Coroner shall grant a permissive warrant for the burial of the deceased, which shall be delivered to any of his relatives or friends, who wish to take charge of the burial; and if no one undertake the duty, and the dead body be within the City of Saint John, or within five miles of the Alms House of the City of Fredericton, the Towns of Portland, or Saint Andrews, or any other Town or Parish with an established Alms House, it shall be sent to the dead house in charge of the constable attending the Inquest, and be delivered to the keeper thereof, accompanied by the warrant, to be by the constable delivered to or left at the residence

of the Overseers of the Poor of the Parish wherein the body may be found, or any one of them, who shall bury the deceased in the same manner as if he had died a pauper, unless otherwise directed by the Coroner; should the distance be beyond such limits, the warrant shall direct the constable to bury the body in a decent manner, using proper economy, and to render an account of the expense thereof to the Coroner, which, with the constable's fees for burying the same, shall be paid to the said constable by the Overseers of the Poor of such Parish, on the order of the Coroner stating that the charge is reasonable and proper.

7. Whenever it may appear to the Coroner that an Inquest is not necessary, or when any two Justices of any County in which any person may have died, shall certify to the Coroner that he would be justified in granting a permissive warrant for burial without holding an inquisition, he may forthwith without taking an inquisition, issue such warrant.

8. For every Inquest the Coroner and other officers shall be entitled to the fees as in the said Table, to be paid out of the public funds aforesaid, together with all moneys necessarily advanced on such Inquest, which charges the Justices in Session shall, on an account therefor duly presented, order to be paid by the County Treasurer.

CHAPTER 133.

OF TRESPASSES ON LANDS, PRIVATE PROPERTY, AND LUMBER.

Section.

1. What trespass a misdemeanor; punishment.
2. How property to be laid in indictment.
3. What other trespass made a misdemeanor; punishment.
4. What shall be evidence of guilt. Except.
5. Property, how, and for whose benefit kept, &c.
6. Right of lessee, &c., under Crown.
7. Who liable for damage to lands for removal of lumber, and to what laws.
8. For what party liable notwithstanding conviction.
9. When and where owner may enter, how, and what for. Penalty for preventing.
10. Civil remedies not affected.

Section.

1. Whoever shall wilfully cut and carry away, or cause the same to be done, or being cut shall carry or cause to be carried away off any lands any lumber, shall be guilty of a misdemeanor, and shall on conviction be imprisoned in the common gaol not exceeding one year, or fined not exceeding fifty pounds, at the discretion of the Court.

2. If such offence be committed on ungranted lands, the property so cut or carried away shall be laid in the indictment to be in the Queen; if upon granted lands, in the owner thereof; and if upon land held under lease or licence from the Crown, in the lessee or licensee.

3. If any person shall by himself or another fraudulently and wilfully take, carry away, convert to his own use, or possess himself of any lumber the property of another, lying or being in or near any river, pond, bay, or inlet, or the bank or shore thereof, without the consent of the owner or person in lawful charge thereof, whether the owner be known or not, or injure, cut up, or destroy any such lumber, or wantonly or maliciously cut away or cast adrift any boom for preserving the same, or any raft of lumber, or hew out, obliterate, or deface the mark by which the same may have been distinguished, he shall for every such offence be guilty of a misdemeanor, and on conviction be imprisoned therefor in the common gaol or Provincial Penitentiary for a term not exceeding two years.

4. In every prosecution under the preceding Section, when it shall be proved that any such lumber was found in the possession of the defendant without the consent of the owner, with the marks thereof, or any of them, cut out, altered, obliterated, or defaced, or the said lumber shall be found partly sawed, manufactured, or destroyed, it shall be evidence of his guilt, and the burthen of proof shall be upon him to discharge himself; but no person shall be deemed to be in possession of any lumber only from the fact of the same being found upon lands in his possession, and carried there by force or action of the water.

5. In any prosecution under this Chapter, the Justice taking the complaint may by warrant direct any constable of the Parish where the property may be, to take and keep the same for the benefit of the owner; and upon conviction of the offender, or his wilfully avoiding arrest, or after trial without conviction, if the Justice shall be satisfied upon sufficient evidence that the ownership of such lumber is in the claimant, or any person not being the defendant, he shall order the same to be delivered up to the owner thereof, or his agent, on payment of reasonable charges for keeping the same; and on failure of such evidence, he shall direct a redelivery to the person from

whom the property may have been taken, on his paying the like charges. But no adjudication under this Section shall be evidence in any Court of the right of property in any such lumber.

6. Where any lumber shall have been cut or carried away from any lands held under lease or licence from the Crown, the lessee or licensee shall be deemed to be the owner of such lumber, with all the rights incident thereto.

7. When any damage shall be sustained to the intervalle lands adjoining the River Saint John by the removal of lumber carried upon the same by the water, the owner or agent of such lumber shall be liable for such damage to the owner or occupier of such lands, and may be prosecuted for the same in any Court of competent jurisdiction.

8. Notwithstanding any conviction had under this Chapter, any person guilty of either of the offences therein described, shall be liable to the owner of any such lumber, raft, or boom, respecting which the offence shall have been committed, in an action for double the value of the property taken or injured.

9. The owner of any such lumber may at any reasonable time, by himself or his agent, enter in a peaceable manner upon any mill, mill pond, brow, boom, or raft of lumber, in search of any such property he may have lost ; any person wilfully preventing such search, shall for each offence forfeit not more than ten, nor less than five pounds, to be paid to the person by whom or on whose account such entry may have been claimed.

10. Nothing in this Chapter shall affect the civil remedy of any parties injured by any such trespasses.

CHAPTER 134.

OF MINORS AND APPRENTICES.

Section.

1. Children under fourteen years, by whom bound.
2. Minors above fourteen years, how bound.
3. Binding, how effected.
4. Indenture, when not binding, &c.
5. Children of paupers may be bound.
6. Provisions in Indentures.
7. Consent of Justice, when.
8. Consideration to be secured for minor.
9. Remedy of apprentice for bad usage.

Section.

10. No person to sell to minor on credit.
11. No master of vessel to harbour apprentice; penalty.
12. Shipbuilders to employ, what apprentices.
13. Apprentices may demand discharge, when.
14. Harbouring apprentice, penalty for.
15. Two Justices may punish apprentice, when.
16. Parent's or guardian's rights.

1. Children under the age of fourteen years may be bound as apprentices until that age by their father, or in case of his death or incompetency, by their mother or legal guardian, and if illegitimate, by their mother. If they have no parent competent to act, and no guardian, they may bind themselves with the assent of two Justices of the County.

2. Minors above the age of fourteen years, not having parents or guardians competent to act, may be bound in the same manner, with their consent expressed in the indenture, and testified by their signing the same; females to the age of eighteen years, or to the time of their marriage within that age, and males to the age of twenty one years.

3. No minor shall be bound unless by an indenture of two parts, sealed and delivered by both parties, and one part shall be kept by the parent or guardian, when executed by them respectively, or deposited with the Town Clerk or Clerk of the Peace, for the use of the minor.

4. No indenture shall be binding on the minor after the death of the master, nor shall any indenture be assignable, nor the minor be taken out of the Province, unless with his consent declared in the presence of a Justice, and certified by him.

5. The Overseers of the Poor may bind as apprentices the children of any poor person who has become chargeable to the Parish, and children whose parents are dead, who have become chargeable themselves, whether they are under or above the age of fourteen years; females to the age of eighteen years, or to the time of their marriage within that age, and males to the age of twenty one years.

6. Provision shall be made in every indenture for teaching children to read and write, and to cypher as far as the rule of three, and for religious and other instruction, and such other benefit and allowance to the minor as may be agreed upon, and in case of sickness, for medical attendance, board, and care.

7. Before any indenture is finally concluded, the parties shall go before a Justice, who shall examine whether the apprentice has any just objection thereto, and certify thereon accordingly; and no indenture shall be deemed executed without such certificate.

8. All considerations of money, or other things paid or allowed by the master upon any contract of apprenticeship made

in pursuance of this Chapter, shall be paid or secured to the sole use of the apprentice.

9. In case of the non-performance of the agreement, or of cruel or hard usage by the master, any apprentice may apply to two Justices, who shall hear the complaint, and if they find sufficient cause, make an order for his discharge, or other relief. If either party be dissatisfied therewith, he may appeal to the next General Sessions, where the matter shall be determined.

10. No person shall sell upon credit to any apprentice, and every action founded on such credit, brought against an apprentice, shall be void.

11. Any master of a vessel harbouring an apprentice, shall forfeit ten pounds for every offence.

12. Every master ship builder shall employ in his ship yard at least two apprentices, being British subjects, each not less than fifteen years of age, and indentured for four years at least, to learn the art of ship building; and for every vessel of one hundred and fifty tons burthen or upwards he shall build, without having the said apprentices, he shall forfeit the sum of fifty pounds, one half to the prosecutor, the other to the County where the vessel may be built.

13. Every apprentice bound by indenture may, at the expiration of his term, demand his discharge. If the master refuse he may apply to a Justice, who shall after notice require the reason for such refusal. If no sufficient cause be shewn in five days, the Justice shall discharge the apprentice.

14. Whosoever shall harbour an indentured apprentice shall forfeit five pounds.

15. Any two Justices may, on the complaint of any master made on oath against an indentured apprentice, for absenting himself from service, or touching any misdemeanor, mis-carriage, or ill behaviour in his service, issue his warrant to bring the offender before them to hear the complaint, and punish the offender by commitment to the common gaol not exceeding a month.

16. Parents, or other persons who have bound minors, shall have a right to enquire into their condition and treatment, and defend them from the cruelty of, or any other violation of their contract by their masters.

TITLE XXXV.

OF PHYSICIANS AND SURGEONS.

CHAPTER 135.

Section.

1. Who may practice ; fees. Persons
licenced, by whom.
- 2 Who entitled to the benefit of this
Chapter.

Section.

3. Who may sue for fees.
4. What Physicians, &c., exempt.

1. No person shall practice Physic or Surgery within this Province, or demand or receive any fee or reward for the cure of any diseases, or the performance of any surgical operation, unless he shall have obtained a Diploma from some College, or other public institution of Great Britain, Ireland, or Canada, authorized to grant the same, or unless he shall have been carefully examined by competent judges, appointed by the Governor in Council, and upon their report receive a licence from the Governor for that purpose.

2. All persons licenced by the Governor since the eleventh day of March one thousand eight hundred and sixteen, shall be entitled to the benefits of this Chapter.

3. Every person duly qualified as aforesaid, shall be entitled to demand, sue for, and recover reasonable and customary fees for his services, and payment for medicines by him administered in the course of his practice in the capacity either of a Physician or Surgeon.

4. Nothing in this Chapter shall extend to any Physician or Surgeon appointed by Commission or Warrant to serve in any Garrison or Military Corps, being within the limits of this Province.

PART THIRD.

OF COURTS AND PROCEEDINGS IN CONNECTION THEREWITH.

TITLE XXXVI.

OF COURTS OF PROBATE.

CHAPTER 136.

OF PROCEEDINGS IN ESTATES OF DECEASED PERSONS.

Section.

1. Judges of Probate; power.
2. Registrar, appointment.
3. Judge and Registrar to be sworn, when.
4. When Judge shall not act.
5. When Judge interested, who shall act.
6. Who shall not be counsel, &c.
7. Jurisdiction, over what estates.
8. Application for letters testamentary, &c.
9. Objection to letters, &c., effect of.
10. Executor neglecting to prove will; penalty.
11. Suppression of; penalty.
12. Executor of surviving executor may have administration.
13. Appraisers, appointment of; fees.
14. Inventory, how made.
15. To be on oath, contents.
16. Claims, how affected by debtor being made executor, &c.
17. Property discovered after inventory, how dealt with.
18. Debts, order of payment.
19. Application of assets before notice of debt.
20. Suits against executors, pleadings in.
21. Time to plead, when granted.
22. Legacies recoverable at law. Remedy by executors against each other.
23. Executor within certain time to render account; penalty for neglect, &c.
24. Proceedings on filing account.
25. Vouchers, &c., by whom to be produced.
26. What allowances may be made in passing accounts.
27. Who shall not make profit by estate.
28. Probate Court may issue Subpoenas.
29. Citations, publication of.

Section.

30. Who shall execute process of Probate Court.
31. Testimony reduced to writing, by whom. Absent witness.
32. Who shall tax costs.
33. Appeal, where.
34. Judge of Probates may grant licence for sale of real estate.
35. When executors may apply for; facts to be stated.
36. If Judge satisfied, licence to issue.
37. When creditor may apply. Proceedings. Executor neglecting to sell, penalty.
38. When Court may order lease instead of sale.
39. Licence to be registered.
40. Before the granting of licence, bond to be given, form of
41. Sale or letting, to whom; notice.
42. Conveyances, by whom and how executed.
43. Judge of Probate may compel specific performance of contracts, when.
44. When Judge may appoint guardian for infant.
45. Actions by and against executors for wrongs of testator.
46. Appeal from Judge of Probates. Preliminaries.
47. When liable to process of contempt.
48. Who may direct a feigned issue, and when.
49. Who may state a case, and for whose opinion.
50. Administration bond, when put in suit; as to recovery.
51. Forms.

Schedule.

1. The Judges of Probate already appointed, or hereafter to be so, by the Governor in Council, in the several Counties in this Province, shall have power to take the Probate of Wills and grant administration of the estates of deceased persons in the manner hitherto in use, subject to the rules and directions by this Chapter prescribed; and shall continue in office, and be in all respects authorized to act as such Judges of Probate,

until some other persons shall be appointed in their stead, without taking out any new Commission on the change of the person administering the government of this Province.

2. The Governor in Council may appoint a Registrar of Probates for each County, who shall have the keeping of all books and papers belonging to the Probate Court.

3. The Judges of Probates and Registrars shall respectively be sworn to the faithful performance of their duties, before they enter thereupon.

4. The Judge of Probates shall not grant probate or letters of administration on any estate in which he is interested as next of kin, executor, or legatee.

5. When the Judge of Probates is so interested, the Governor, on the application of the party entitled to probate or administration, may specially appoint some other person in the County in his stead, who shall have all the powers incidental thereto.

6. No Judge of Probate shall be counsel, attorney, or proctor, in any matter pending, or to be brought before him.

7. Any deceased person, being an inhabitant of any County, and dying at any place, or not being an inhabitant of this Province, leaving assets in any County thereof, the Judge of Probates of such County may take probate or grant administration, and shall in either case have exclusive jurisdiction over all the estate of such deceased person in the Province.

8. The application to the Judge of Probates for letters testamentary or of administration, shall be by petition of the party entitled by law, or of one or more of the creditors of the deceased, setting forth the time and place of the death of the deceased, and the amount of his estate, real and personal, and such other particulars as may be necessary, the same to be verified on oath before such Judge, and he may examine any other person upon oath relating to the allegations of the petition. If the petition be opposed, or there appear to be parties having prior or equal rights to such administration not assenting, or the claim thereto may be doubtful, a citation shall issue. Before granting letters of administration, the Judge of Probates shall take from the persons applying therefor, a Bond (A) with two sureties to be approved of by him according to the form in the Schedule or to the like effect, which shall be filed in the Registry of his Court.

9. If objection be made to letters testamentary being issued to any person without security, the Judge, after enquiry, may order a Bond (A) to be given for due administration of the estate, as in case of intestacy.

10. If any executor of the Will of any deceased person, knowing of his being named and appointed as such, shall not within thirty days next after the death of the testator, cause such Will to be proved and recorded in the Registrar's office of the same County where the deceased person last dwelt, or present the said Will and renounce the executorship thereof, every such executor shall (without just excuse for the delay) forfeit the sum of five pounds every month from and after the expiration of the said thirty days, until he shall cause Probate of such Will to be made, or present the same as aforesaid; every such forfeiture to be sued for and recovered in the Supreme Court, at the suit of any of the heirs, legatees, or creditors of the testator.

11. Whoever shall be found guilty of suppressing any Will shall be liable to the same penalty, recoverable in the same manner as in the next preceding Section.

12. The executor of a sole or surviving executor of any Will, shall not be the executor to the first testator's Will, but he may have administration with the Will annexed.

13. The Judge, on granting administration, or letters testamentary, may, as often as he thinks fit, appoint by Warrant (B) two or more disinterested persons to appraise all the estate of the deceased, and the appraisers shall each receive for their services ten shillings per day.

14. One or more inventories shall, with the aid of the appraisers, who shall be sworn to perform their duty, be made and returned by the executor to the Registrar, within three months, unless further time be allowed, and if not returned, the same may be compelled by citation, on the application of any person interested.

15. The inventory shall be made on oath, and contain the particulars of all the real and personal estate of the deceased.

16. Any legal claim against any person shall not be discharged by his being appointed executor or administrator of the estate of the deceased; but such claim shall be assets of the estate.

17. Property discovered after the making of any inventory

shall be appraised in the manner aforesaid, and an inventory thereof be returned within three months after such discovery.

18. The executor shall pay the debts of the deceased according to their legal priority, in classes ; debts of the same class in equal proportions, without preference for a debt due, or suit commenced, or judgment obtained on any debt, or a claim of the executor.

19. Where an executor has applied the assets to the payment of debts, or any proportion thereof, of which he had notice, and eighteen months have elapsed since the date of the letters testamentary or of administration, and a creditor shall afterwards bring an action for any demand against him, it shall be a good defence to such action that such assets have been applied before he had notice thereof; but such defence must be specially pleaded ; the proof of such notice shall be on the plaintiff, but he may as in other cases, take judgment for such demand, or any part of it, to be levied of future assets, as is provided for in the next following Section.

20. In a suit against an executor, debts of a prior class, or debts unpaid of the same class with that for which the suit is brought, may be proved on notice by affidavit under the plea of fully administered, whereupon the executor shall only be charged with any assets in his hands after deducting the debts of a prior class, and a just proportion of the debts unpaid of the same class. The plaintiff may answer the notice by any evidence without replication, and may have judgment to be levied on future assets, according to the principle aforesaid.

21. Time may be granted to an executor, in an action brought against him, if it appear to the Court or a Judge thereof, that he require further information respecting the estate to enable him to plead.

22. Where any certain legacy is or shall be bequeathed by any person in his Will, and also when any residuary or uncertain legacy is or shall be by the account of any executor, reduced to a certainty, every such legacy and legacies may be sued for, and recovered, at common law ; and co-executors, being residuary legatees, may have actions of account against each other.

23. Every executor shall render an account of his administration to the Judge of Probates, unless he otherwise allow,

within eighteen months from the Probate or administration, and after that may be cited to do so on the application of any person interested, and for every neglect he shall forfeit the sum of five pounds each month from the time appointed by the citation to render such account, or the administrator may be superseded by the appointment of another person, and may make such order respecting the estate unadministered as the Judge may deem just.

24. On the filing of any accounts a Citation (C) may issue on the application of the party filing the same, or of any person having an interest therein, requiring all parties interested to appear before the Judge at a time not less than thirty days from its date, to attend the passing thereof.

25. Every executor shall produce vouchers for all his expenditures; he may be examined on oath by the Judge of Probates touching the effects and disposition of the estate, and may be allowed any payment not exceeding five pounds, without voucher, if he swear to the same.

26. The Judge in passing the accounts may allow to any executor for property which has perished, or is lost without his fault, the same not to be conclusive against any person contesting the questions.

27. No executor shall make any profit out of the estate, but the Judge may allow him on the amount received, over and above all necessary expenses, a reasonable commission not exceeding five per centum.

28. The Probate Court may issue Subpœnas (D) for witnesses, or for the production of papers, and punish disobedience thereto, in like manner as any Court of Record.

29. Citations shall be published by posting them up three weeks before the return thereof, in three public places in the County, and also by insertion in a Newspaper for the same time, (if any printed in the County), or by personal service, if directed by the Judge.

30. The Sheriff or other ministerial officer to whom any process may issue out of the Court, shall execute the same, and neglecting to do so be subject to an action at the suit of the party injured.

31. All testimony taken before a Judge of Probates in any matter over which he has cognizance, shall be by him reduced

to writing, and entered in a book ; if the only living witness to any Will be out of the jurisdiction, proof of that fact, of the death of the other witness, and of the hand writing of such witnesses, together with that of the testator, shall be sufficient evidence to authorize granting Probate of the Will, unless proof be required in solemn form, in which case a commission may issue, and evidence may be taken under the same in such manner as the Judge may direct.

32. The Judge shall tax the costs in all matters before him, and order the payment out of the estate or otherwise as he may direct, for which the party shall have execution (E).

33. The Court of Chancery shall be the Court of Appeal for all matters cognizable by the Judges of Probates, and shall make rules and forms of proceedings for both Courts.

34. If from a deficiency of personal estate to pay the debts it becomes necessary to apply the real estate therefor, the Judge of Probates may grant a licence to the executor to sell the same, on application as hereinafter provided.

35. The executor shall within ten years from his appointment petition the Judge of Probates, specifying the personal property received by him, the debts rendered against the estate, a description of the real estate, with the value of each lot or part thereof, if occupied, the name of the occupant, and the names and ages of the heirs and devisees, to be verified on oath by the executor ; upon which the Judge of Probates, after notice to the parties interested, may hear the proofs of the petitioner or any person interested, and determine the validity or legality of any demand against the estate.

36. If the Judge of Probates be satisfied of the matter of the petition, he may grant licence for the sale of the real estate or any part thereof, specifying the portions, and if necessary, may grant further licence.

37. At any time after one year and before the expiration of ten years from the probate or administration, on the application of any creditor of the estate, the Judge of Probates may make an order for the executor to shew cause why a sale of the real estate of the deceased person should not be made to satisfy his debt, and any other debts which may appear to be due, and the Judge on being satisfied that the personal estate is not sufficient for the payment of such debts, may order the

executor to sell and convey the real estate, or such part thereof as may be necessary, in the same manner as if a licence had been granted. If the executor do not comply with such order he shall be liable to pay costs out of his own estate ; and if a second or other application be required for this purpose, and be neglected, the Judge may fine him in a sum not exceeding ten pounds, with costs ; on nonpayment of any such costs or fine, he may issue a warrant to arrest and imprison the executor till the same be paid, and so on until he complies with the order for such sale.

38. The Judge of Probates may, on being satisfied that it will be for the advantage of the heirs and devisees, and not injurious to the creditors, order the real estate, or parts thereof, to be leased for a time not exceeding twenty one years, such lease to be executed by the executor.

39. The licence or order to sell or lease shall be registered by the Registrar of the Court of Probates, a copy of which, certified by him, shall be sufficient evidence in all Courts.

40. Before such licence or order shall be issued or be in force, the executor shall execute and file with the Registrar the Bond (F), with two sureties approved by the Judge of Probates, and he shall be thereupon entitled to and may recover the rents and profits of such real estate accruing from the death of the testator or intestate, which shall be assets. Any such rent paid in good faith to any heir or devisee before notice of licence, shall not be recoverable from the tenant.

41. Every sale or letting shall be made to the highest bidder by public auction, after thirty days notice thereof, posted up in three of the most public places in the County, and for four successive weeks in a Newspaper printed in the County (if any), specifying the parcels of land to be leased or sold.

42. The necessary conveyances shall be executed by the executor, in which the substance of the licence shall be set forth, with an affidavit of the executor indorsed thereon, that the premises mentioned therein were duly advertised and sold, which conveyance, or a certified copy thereof when duly registered, shall be evidence in any Court of such conveyance, and that all the proceedings upon which the same is founded were rightly done.

43. A Judge of Probates, on petition of the executors of the

estate of any deceased person who may have died before the performance of any contract made by him in his life time, or of any other person interested in such contract, if the consideration or value of the land agreed to be sold shall not exceed five hundred pounds, and on hearing the parties, may compel the specific performance thereof by any infant heir or other person.

44. When an infant's estate shall not exceed the value of five hundred pounds, any Judge of Probates within his jurisdiction, on petition of the infant, verified by affidavits, may appoint a guardian for the estate, who shall enter into a recognizance faithfully to perform the duties of the office.

45. An action of trespass or on the case may be maintained by the executor for any injury to the real estate of the deceased, if he could have recovered in his life time, and if committed within six months before his death, and the action be commenced within one year thereafter ; the like action may be maintained against any executor for an injury to the real or personal estate, committed by the person he represents, if committed within the like time, and the action be brought within six months from probate or administration ; the damages in the first case to be part of the personal estate, and in the second, be payable in like order of administration as the simple contract debts of the deceased.

46. Any person aggrieved by any official act of the Judge of Probates may appeal therefrom, and if he file the appeal with a surety bond (G) in the Registrar's office within thirty days thereafter, all proceedings shall be suspended until the appeal be determined, but the Court of Chancery may, upon special cause shewn, and upon such terms as it may prescribe, allow an appeal at any time within six months. The appeal being filed and fees paid, the Judge shall forthwith transmit to such Court a copy of all the proceedings in the case, with his decision, and the reasons therefor.

47. The Court of Chancery may order an attachment (H) against any Judge neglecting to send the proceedings and decision, on appeal perfected, and fees. The costs in all cases before the Court shall be in the discretion of such Court, and be paid out of the estate, or otherwise as the Court may direct, to be enforced by attachment or action on the bond.

48. The Court may direct a feigned issue for the trial of any question of facts arising upon an appeal. The Supreme Court to exercise the power of granting new trials thereon.

49. The Court of Chancery may state questions of law for the opinion of the Supreme Court, who, after hearing argument thereupon, shall certify their opinion to the Court of Chancery.

50. No administration bond shall be put in suit without order of the Court of Chancery, a copy of which, certified by the Registrar, shall be evidence of such order, and vest in the party interested and applying therefor, a right to bring an action thereon in his own name. The Court may also make such order as they think fit for the delivering, reading in evidence, and returning the bond. A recovery may be had thereon for the acts of the executor, to the value of the assets wasted by him. The sum recovered upon the bond, deducting costs, shall be assets, and distributed by order of the Court of Chancery; and it may be put in suit as often as necessary, but the whole amount recovered shall not exceed the penalty. The successful party to be entitled to costs.

51. All bonds, warrants, citations, subpœnas, executions, and attachments, shall be according to the forms in the following Schedule, or to the like effect.

SCHEDULE.

(A)

Administration Bond.

Know all men by these presents, that we are jointly and severally bound unto the Judge of Probates for the County of , in the sum of pounds to be paid to him. Sealed and dated this day of , in the year of our Lord one thousand eight hundred and

The condition of this obligation is, that if the above bounden , Administrator of all and singular the goods, chattels, and credits of deceased, do make, or cause to be made, a true and perfect inventory of all and singular the real estate, goods, chattels, and credits of the said deceased, which have or shall come to his hands or knowledge, or into those of any other person for him, exhibit the same unto the Registrar of

the Probate Court for the said County of , on or before the day of next, and the same, with all other goods, chattels, and credits of the deceased which shall come into the hands of the said , or any other person or persons for him, do well and truly administer according to law ; and further, do make a true and just account of the said administration at or before the day of ; and all the rest of the said goods, chattels, and credits which shall be found remaining upon the said Administrator's account, the same being first examined and allowed of by the said Probate Court, or other Court of competent authority in that behalf, do deliver and pay to such person as the said Court, or other competent Court, by sentence or decree shall adjudge.* And if it shall hereafter appear that any Will was made by the deceased, and the Executor therein named do exhibit the same into the said Probate Court, making request to have it allowed and approved accordingly, if the said above bounden, being thereto required, do deliver the Letters of Administration (Probate of such Testament being first made) unto the said Probate Court,* then this obligation to be void, or else to be in full force.

*Sealed and delivered }
in presence of }*

NOTE.—*The Bond when given by any Executor, to be in the like form, substituting Executor, &c., for Administrator, &c., and omitting the words between the asterisks.*

(B)

Warrant of Appraisement.

New Brunswick. County of ss.

To A. B. &c. Greeting: You are hereby empowered to take an inventory of all the real estate, goods, chattels, and credits of which , late of , in the County aforesaid, yeoman, died seized or possessed within the Province, and according to your best skill and judgment, truly appraise the same, which when completed you are to deliver to the Executor of the said deceased, to be returned together with this Warrant, in three months from the date hereof. Given under my hand this day of , 18.

B. P. Judge of Probates.

ss. The above named appraisers personally appeared before me, and made oath that they would faithfully perform the services to which they are appointed by the above Warrant.

A. L. Commissioner, &c.

(C)

Citation.

New Brunswick, ss.

To the Sheriff of the County of or any Constable within the said County, Greeting:

Whereas A. B. Executor (*or other person interested, as the case may be*) hath prayed that may appear and [*here state in short form the object,*] you are therefore required to cite the said (and all others interested, *as the case may be,*) to appear before me at a Court of Probate to be held at within and for the said County, on the day of next, to [*here state in short form the object.*] Given under my hand, and the seal of the said Court, this day of 18 .

B. P. Judge of Probates.

A. F. Registrar of Probates
for said County.

(D)

Subpæna.

ss. To , Greeting:

You are hereby required to appear before me, at a Court of Probate to be held at within and for the said County, on the day of to give evidence of what you know touching [*here state shortly the object*] hereof fail not. Given under my hand this day of 18 .

B. P. Judge of Probates
for the County of

(E)

Execution.

Probate Court, County of , ss.

To the Sheriff of the said County of , Greeting:

You are hereby required [*in case it be an alias execution, add as before,*] to levy of the goods and chattels of within your bailiwick, the sum of for cash awarded

in favour of on a certain proceeding lately had before me as Judge of Probates in and for the said County, and have that money before me at my office in within thirty days from the date hereof, to be rendered to the said ; and for want of goods and chattels, you will take the body of the said and deliver him to the keeper of the gaol of the said County, and the said keeper will take the said in custody, and him safely keep until the said sum, and your costs of levying this execution be paid: And make return hereof within thirty days. Given under my hand this day of
18 .

B. P. *Judge of Probates.*

A. F. *Registrar.*

(F)

Bond on sale of Real Estate.

Know all men by these presents, that we [*as in Administration Bond.*]

Whereas licence has been granted by the Probate Court for the County of to the above bounden executor of the Will (or administrator of all and singular the goods, chattels, and credits, *as the case may be,*) of deceased, to sell (or lease, *as the case may be,*) real estate of the said deceased for payment of debts;

Now the condition of this obligation is, that if the said executor (or administrator) as aforesaid, shall faithfully apply all moneys arising from the sale (or lease) of any of the real estate of the deceased, or from the rents and profits thereof, in payment of his debts, agreeably to law, and shall truly account for the same in his administration account before the Probate Court for the County of , or other competent Court, and shall pay any surplus of such moneys which shall be found remaining in his hands upon such accounting unto such person or persons, as the Probate Court, or other competent Court, shall by sentence or decree according to law adjudge, then this obligation to be void, otherwise in force.

*Sealed and delivered }
in presence of }*

(G)

Bond on Appeal.

(The Bond to be taken for thirty pounds, payable to the Judge of Probates, in the same form as the Administration bond, and conditioned as follows):

Whereas the above bounden hath appealed from the decision of the said Judge of Probates, made in a certain matter pending before him;

Now the condition of this obligation is, that if the said shall pay such costs arising from such appeal, and to such persons as a Court of Chancery may order, then this obligation to be void, or else to be in force.

*Sealed and delivered }
in presence of }*

(H)

*Attachment.***Probate Court.**

County of , ss. To the Sheriff of , Greeting : You are required to attach , if found within your bailiwick, and him safely keep, so that you may have his body before me at my office in , on the day of next, to answer for a contempt by him lately committed in neglecting to appear before me, pursuant to a subpoena issued in that behalf, (*or in case it be for refusing to testify after appearing*, for refusing to testify before me), in a certain matter lately pending before me as Judge of Probates for said County, and have there then this Writ. Given under my hand this day of 18 .

B. P. *Judge of Probates.*A. F. *Registrar.***TITLE XXXVII.****OF THE COURTS OF JUSTICES.**

1. S. 13

CHAPTER 137.**OF THE JURISDICTION OF JUSTICES IN CIVIL SUITS.**

Section.

1. Jurisdiction of Justices.
2. Actions, by and against whom.
3. Particulars of demand. Set off.

Section.

4. Justice to keep a book.
5. Next friend for infant.
6. Court, where to be held.

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7. Tender.	33. Constable neglecting to return venire, proceedings.
8. Process, by whom signed.	34. Trial and verdict, or other disposal of the cause.
9. Summons, its contents, mode of service and return.	35. Penalty for non-attendance of juror.
10. Capias, how granted.	36. Verdict, &c. Costs.
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12. Arrest.	38. When Justice shall issue execution.
13. Proceedings after arrest.	39. Executions. Certain persons exempt.
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15. Duty of Justice in taking bail on writ not issued by him.	41. Liability of constable.
16. Bail, their liability.	42. When bail liable.
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18. The issuing of successive writs.	44. Renewal of proceedings.
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1. Every Justice shall have jurisdiction over the following civil actions :—

First—Actions of debt where the sum demanded does not exceed five pounds.

Second—Actions of tort to real or personal property, where the damages claimed do not exceed forty shillings; but no Justice shall have jurisdiction over civil actions where the Queen is a party, or where the title to land shall come in question, or the action is for the recovery of a debt exceeding five pounds, unless the same be reduced by payment or abandonment to that sum, or where the action is for debt upon a specialty, or against personal representatives, trustees of absconding debtors, assignees of bankrupts, or corporations.

2. The following regulations respecting the process and proceedings shall be observed, viz :—Actions cognizable before a Justice may be brought by and against all persons excepting as aforesaid.

3. A person applying to a Justice for a writ, shall before the issuing thereof file with him the particulars of demand, a copy of which shall be annexed to the copy of the writ and therewith served upon the defendant. And every defendant having a set off shall file the same with the Justice, and deliver to the plaintiff a copy thereof two days at least before the day of trial.

4. Every Justice shall keep a book in which he shall enter all processes issued by him, and when, all causes brought before him, the names of the parties, and the judgments rendered by default or otherwise; it shall also be his duty to take fully the evidence on trials, that he may transmit the same to a Judge of the Supreme Court when called upon to do so.

5. No process shall be issued for an infant (except an infant servant for wages) until a next friend be appointed (A) for him. Upon application made the Justice shall appoint a suitable person, to be named by the infant, and such person shall consent in writing to act as his next friend, and to be responsible for costs, but no action shall be maintained against an infant upon any debt or contract unless for necessaries.

6. No Justice shall hold a Court for the trial of any action under this Chapter in any other Parish than that in which the Justice resides, except as hereinafter provided.

7. If a defendant make a tender before action brought, he shall pay the money into the hands of the Justice before or at the hearing, or it shall be of no avail.

8. Processes shall be signed by the Justice himself, and shall be either a summons (B) or writ directed to any constable of the County in which the defendant may be found, or to any person whom the plaintiff may require.

9. The summons shall be directed as aforesaid, commanding the constable to summon the defendant before the Justice who issued it, at a time not less than six days nor more than thirty days from the issuing thereof, and at the place therein specified, to answer the plaintiff for the cause of action in the summons mentioned. The summons shall be served six days at least before the return day thereof, as follows:—If the defendant can be found, by delivering to him a copy thereof, or if he cannot, by leaving the same at his place of abode with some adult member of his household. The constable or other person shall return the process with an endorsement thereon signed by him, of the manner in which he served the same, verified by his oath, if required.

10. Upon the plaintiff making affidavit (C) of his cause of action and stating therein that after giving full credit for all payments and offsets, the defendant is indebted to him in a sum not exceeding five pounds, nor less than ten shillings, as the case

may be, that he is afraid of losing his debt, and the defendant is of the age of twenty one years, the Justice shall issue a capias (D) against such defendant if neither a Member of the General Assembly, nor a female.

11. The capias shall be directed to any constable of the County wherein the defendant may be found, commanding him to take the defendant, and bring him forthwith before such Justice, unless he give good bail (D) to appear at the time and place where the cause is to be heard.

12. The capias shall be served by arresting the defendant, and giving him a copy thereof, after which the capias shall be returned (D) to the Justice, with the mode of service endorsed upon it.

13. After the defendant is arrested the constable shall take bail for his appearance, who shall subscribe a memorandum endorsed on the capias that they have become so, but if no bail be offered he shall carry the defendant before the Justice who issued the capias, or in case of his sickness or absence, before some other Justice, and the defendant when brought there shall either deposit (D) the sum sworn to and costs, or give bail in the manner aforesaid, or be committed to gaol by warrant (E) of the Justice, but the deposit shall be applied to the payment of the plaintiff's judgment. If there be an overplus it shall be returned to the defendant on demand; but the plaintiff may at any time waive bail and proceed as on summons.

14. The defendant shall be detained in custody one day only for every two shillings of the sum stated in the warrant, whether he remain in custody thereon or be charged in execution, but no gaoler shall be liable for detaining a defendant beyond the legal time unless he demand his discharge, or the detention be wilful and malicious; any defendant so committed to gaol shall at any time before final judgment be released upon bail being given as aforesaid.

15. The Justice taking bail or a deposit in a case not depending before him, shall forthwith transmit the capias, with the deposit, to the Justice who issued the capias, that he may proceed thereon.

16. The bail shall be answerable for the debt and costs, or that the defendant be rendered into custody upon execu-

tion if it be delivered to a constable within six days after judgment, unless the defendant point out sufficient personal property to satisfy the execution and fees thereon.

17. If the writs be served only six days before the return, the Justice at the request of either party, shall appoint a further day for hearing the cause, giving six days notice to the other side, but if the defendant be in actual custody, and unable to find bail, the cause shall not be put off without the defendant's consent, unless the plaintiff release him.

18. The Justice at the request of the plaintiff may issue alias and pluries writs when necessary.

19. Either party may conduct his suit in person, but no attorney shall take any part in a cause if objected to by the opposite party, unless he make oath (F) that his services are entirely gratuitous.

20. Debts due from the plaintiff to the defendant before action brought, may be set off against the plaintiff's demand, but if a set off be founded on an instrument having a penalty, then only the real debt secured by the condition shall be set off. If the set off established be equal to the plaintiff's debt, the defendant shall have judgment with costs; or if more, and not exceeding five pounds, then the defendant shall have judgment for the excess with costs; if less than the plaintiff's debt then the latter shall have judgment for what is due to him with costs. If the defendant's demand exceed in the whole the sum of ten pounds, he shall not be entitled to set off any more than to the amount of the plaintiff's demand, but shall have his remedy for the residue in a higher Court, unless he abandon so much as shall reduce the excess to five pounds. If the plaintiff's demand exceeds five pounds, judgment shall be rendered against him with costs, unless he reduces it to that amount, and abandons the overplus. In suits brought by executors or administrators, the defendant may set off demands due him from the testator or intestate; and in like manner in suits by trustees of absconding debtors, the defendant may set off against them debts due from the debtor at the time of his absconding. Whenever a set off is established in a suit brought by executors, administrators, or trustees, the judgment shall be against them as such, and evidence of the debt, but execution shall not issue thereon.

21. If on the trial the title to land shall come in question, the Justice shall render judgment for the defendant for his costs.

22. The parties, on the trial of a cause, shall be confined to their particulars, unless good cause be shewn.

23. For the absence of a material witness, or other good reason appearing by affidavit, a Justice may adjourn the hearing of a cause till a future day, but when the defendant is in custody, and cannot procure bail or make a deposit, the Justice shall not adjourn the cause unless the plaintiff consent to release the defendant from custody.

24. No adjournment shall be allowed in any case beyond one month.

25. A Justice may issue subpœnas (G) into any County for witnesses to give evidence on any trial before him or any other Justice, and the person so subpœnaed, on being tendered the legal fees, shall attend.

26. The subpœna may be served by any person, by shewing it to the witness, and delivering to him a copy or minute (G) thereof, with his fees, if demanded.

27. Every person duly subpœnaed as a witness, neglecting or refusing to appear and testify, shall be liable to the person subpœnaing him for all damages sustained by such neglect or refusal.

28. Every cause shall be tried or determined at the return of the process, if duly served, or on some other Court day, before the Justice who issued the process, or in case of his inability to attend, or of his being a witness, then before some other Justice for the same County, resident in the Parish where the Court sits, who shall attend at the request of the Justice who issued the process, to try the cause ; every cause shall be tried before the Justice who issued the process, but if he be unable from sickness or other reason to conclude after having begun the trial, another Justice may be called on, who shall take up the proceedings at the point where they were left, and carry on the same to a close.

29. If either party apply to the Justice one day previous to the trial for a jury, he shall grant the same and issue a venire (H) to a constable to summon three persons duly qualified to sit as jurors in the said cause.

30. If the defendant do not appear and defend, the Justice shall assess the damages against him, upon written instruments for the payment of money, without further evidence ; for other demands, upon the oath or affidavit of the plaintiff or other person.

31. The Justice shall allow legal challenge of jurors. If a sufficient number do not attend he may order the constable to summon some of the by-standers to supply the deficiency.

32. The constable shall execute the venire impartially, and return (H) it to the Justice, with the names of the jurors annexed thereto.

33. If the constable do not return the venire as thereby required, or a sufficient number of jurors do not attend, the Justice may direct the constable to summon other jurors forthwith, and proceed with the business.

34. The jury after being sworn (I), shall in open Court hear the parties and their evidence, which shall be legal evidence (I), unless the parties dispense therewith ; the jury, after hearing the parties and their evidence, shall be kept together in charge by a constable or other fit person appointed by the Justice and duly sworn (I), until they agree upon a verdict, which they shall publicly deliver to the Justice, who shall enter it in a book, and give judgment accordingly ; but if the jury cannot agree after being out a reasonable time, not less than three hours, the Justice may discharge them, and, at the request of the parties, he may submit the cause to another jury, or may by their consent decide the cause himself.

35. Any juror duly summoned, and not appearing, nor rendering a reasonable excuse, or refusing to serve, shall be subject to a fine of twenty shillings, to be recovered before the said Justice, in the name of the County Treasurer, for the use of the poor.

36. The plaintiff may elect to become nonsuit, or if he fail to appear, a nonsuit may be entered ; and in all cases tried before a Justice, the successful party shall recover costs.

37. In the case of co-partners in trade, doing business under a firm, the names of all the members of which may not be set forth, and in the case of joint debtors, it shall be sufficient, in process against the co-partners, to insert the name and style of such firm, as used by it, and serve such process upon any

member of the firm doing business in the County where the process is issued ; and in process against joint debtors, it shall be sufficient if the process be served upon one only ; and judgment against the firm in the one case, and against the joint debtors in the other, may be rendered ; in the former the execution shall be levied on partnership property only, in the latter the execution shall be levied on their joint property ; but neither the separate property of the one not served, nor his person, shall be taken on execution unless he make defence.

38. Upon a judgment rendered before a Justice, he shall, at the request of the successful party, issue execution, which must be done within three years after judgment obtained.

39. Every execution issued by a Justice shall be as nearly as may be according to the form (K) in the Schedule ; but Members of the Assembly, and females, shall not be liable to be taken in execution ; and alias and pluries executions may be issued while the judgment or any part thereof remains unsatisfied.

40. Goods and chattels taken under execution may be sold after being publicly advertised five days prior to the sale, and after satisfying the execution the surplus shall be paid to the defendant ; and for want of goods and chattels, the constable shall take the defendant and lodge him in gaol, where he shall be detained one day for every two shillings of the debt, including any former imprisonment, in case of having been previously confined in the suit, such imprisonment not to exceed fifty days in the whole ; but this provision shall not extend to persons on the limits.

41. For every breach of duty herein by the constable, he shall be liable to an action (L) at the suit of the party injured, who shall recover before any Justice damages with costs to the extent of the injury sustained, although the damages exceed five pounds.

42. Upon the return (K) of an execution that neither sufficient goods or chattels, or the body of the defendant could be found, the plaintiff may sue (M) the bail, and recover the amount due on the judgment with costs, although above five pounds, but the bail shall not be liable beyond the sum sworn to and costs.

43. If an action be brought in any other than the Justices' Court, and the plaintiff do not recover more than five pounds, he shall not have costs, unless the Judge who tried the cause,

or the Court, order that he shall, upon the ground of the demand having been reduced by set off, or other reasonable cause. In case such action be brought in the Supreme Court, and the plaintiff recover less than five pounds, and the Judge certify there was no reasonable cause for bringing such action there, the defendant shall have costs ; if they be less than the plaintiff's verdict, they shall be deducted therefrom, if they exceed it, the overplus to be recoverable by process of attachment.

44. In all civil causes tried before a Justice, if either party be dissatisfied with the judgment, he may, within six days thereafter, apply to him for a copy of the evidence, a minute of the cause of action, the grounds of defence, and the result, which the Justice shall give him within three days, the party paying him five shillings therefor ; and if he neglect to do so, obedience may be enforced by a Judge's order and attachment. Upon these being laid before a Judge of the Supreme Court, with an affidavit of the party that he thinks substantial justice has not been done him, the Judge may at any time within thirty days after such judgment, or after obtaining the copy and minute aforesaid, appoint (N) a time and place for hearing the matter, and notice thereof shall be given to the opposite party ; and the Judge shall, after such hearing, decide the cause according to the very right of the matter, without regard to forms, unless the Justice acted wholly without jurisdiction, and may affirm or reverse the judgment, or alter the same in any respect, and remit the cause to the Justice that he may issue execution for the amount awarded to either party and affirmed on review, or enforce the payment of such amount with costs by attachment. If the judgment be wholly affirmed or reversed, costs shall be awarded to the successful party, but if in part only, or altered, costs shall be awarded at the discretion of the Judge. The costs in all cases to be taxed by him and recovered by attachment (O). A copy of the Judge's minute of the judgment upon such review, certified under his hand, shall be evidence of such judgment, and a copy of any order made by him in the proceedings, certified by him, shall be evidence of such order in all Courts. A party when entitled may sue out of the Supreme Court a writ of attachment upon the fiat of a Judge, but no such fiat shall be made unless it

appear to his satisfaction that the money or costs ordered by him to be paid, have been duly demanded by the party thereto, or his attorney, and have not been paid ; the costs of the attachment to be ten shillings, and to be levied from the party against whom it is issued. The Sheriff executing the attachment shall be entitled to fees as in the case of an execution. Upon payment to him of the amount of the attachment, and his fees thereon, he shall discharge the defendant, return the attachment, and pay over the money to the party entitled thereto.

45. Persons in custody on a writ of attachment, shall be entitled to the benefit of the Chapter for the relief of insolvent confined debtors.

46. Money paid for any person to a Justice in his official capacity, if detained by him after demanded from him by the party entitled thereto, may be recovered with treble costs by action in the Supreme Court.

47. A Justice may punish for contempt, persons guilty of the following acts :—

First—Insolent behaviour towards the Justice whilst engaged in any judicial proceedings.

Second—Any breach of the peace or disturbance tending to obstruct the official proceedings of a Justice.

Third—Wilful refusal by witness at any trial before a Justice to testify.

The punishment for contempt in the above cases may be by removal of the offender from the Court, or the imprisonment (P) of him in gaol, for a period not exceeding twenty four hours. The Justice imposing such punishment shall make a record thereof.

48. Every Justice shall at the request and cost of any party, furnish him with copies of any proceedings had before the Justice in a civil suit.

49. The proceedings in any cause had before a Justice may be proved by the production of a sworn copy thereof by a competent witness.

50. Justices shall preserve all papers in any cause delivered to them to be filed, and upon their death or removal from office, they shall be delivered to the Clerk of the Peace of the County, to be filed in his office.

51. When any act is to be done, the time shall be computed the first day exclusively, and the last day inclusively.

52. The processes and proceedings in actions before Justices of the Peace, and on the reviewal thereof, and the attachment, shall be according to the forms in the Schedule to this Chapter, or to the like effect, and the fees therefor shall be taxed according to the Table of Fees.

53. The City Court of the City of Saint John shall be vested with the same jurisdiction as is hereby prescribed for Courts before Justices, and no other; but the fees, process, forms, and modes of proceeding in that Court, shall continue the same as now used.

SCHEDULE.

Of Forms of Proceedings in Justices' Courts, and on reviewal.

(A)

Appointment of next Friend for a Minor.

At the request of A. B. who is under the age of twenty one years, S. L. of [state residence and occupation] is appointed his next friend in a suit against C. D., and hereby consents thereto.—Dated the day of , 18 .

S. L.

N. M. J. P.

(B)

Summons.

County, ss. To any Constable of the Parish of .
Summon C. D. to appear before me at my dwelling house in the Parish of (or at my office in the Parish of , or otherwise, as the case may be), on the day of , at the hour of in the noon, to answer the demand of A. B. for [state the amount claimed in words at length], for [state the nature of the action, and if a bill of particulars be annexed to the copy of Summons, add according to the particulars herewith delivered], and make return hereof forthwith as by law directed.—Dated the day of , 18 .

N. M. J. P.

Alias Summons (as before) &c. as in the foregoing.

Pluries Summons (as often before) &c.

Returns.

Personally served on the within named C. D. the day
of , 18 , by me.

O. P. *Constable.*

Proved on oath before me the day of , 18 .
N. M. J. P.

Personally served on the within named C. D. the day
of , 18 ; the within named E. F. was not found.

O. P. *Constable.*

Served on the within named C. D. by leaving a copy at his
last place of abode, in the Parish of , with , an
adult member of his household, the day of , 18 .

O. P. *Constable.*

N. B.—*Add the attestation in all cases where necessary.*

Affidavits of service of Summons.

A. Z. of [state residence and occupation of deponent], maketh
oath that he did on the day of personally serve
C. D. the defendant in the annexed process named, with a
true copy thereof [and at the same time read the same to him,
or acquainted him with the contents thereof.]

A. Z.

Sworn at the day of , before me.

*NOTE.—If the process was not required to be read or explained
to the defendant, the latter part between the brackets may be
omitted. If a bill of particulars be annexed to the copy of pro-
cess, the affidavit should be as follows:—*

A. Z. of &c. maketh oath that he did on the day of
personally serve C. D. the defendant in the annexed
process named, with a true copy thereof, annexed to which
copy was a particular of the plaintiff's demand.

Service at last place of abode.

A. Z. Constable of the Parish of , maketh oath that
he did on the day of , leave at the last place of
abode of E. F. the defendant, a true copy of the annexed pro-
cess with R. F. an adult member of his household.—Sworn
at the day of , 18 .

A. Z.

A. Z. Constable of the Parish of , maketh oath that he did on the day of personally serve E. F. one of the defendants in the annexed process named, with a true copy thereof, and did on the day of leave at the last place of abode of J. H. the other defendant, with an adult member of his household, a true copy of such process.

A. Z.

Sworn, &c. (as before.)

(C)

Affidavit to obtain a Capias.

A. B. of [*state the place of residence, profession, or occupation of the deponent*] maketh oath that C. D. is justly and truly indebted to the deponent in [*state the amount and cause of action, which must not be under ten shillings*] after giving full credit, to the best of this deponent's knowledge and belief, for all payments and offsets, that the cause of action does not exceed five pounds, that he does verily believe the said C. D. is of the full age of twenty one years, and that there is danger of losing the said debt if the said C. D. be not arrested or held to bail.

A. B.

Sworn at the Parish of , this day of ,
18 , before

M. N. J. P.

R. S. of [*state the place of residence, profession, or occupation of the deponent*] agent of [*or clerk and agent of*] A. B. of [*state residence and occupation of plaintiff*] maketh oath that C. D. is justly and truly indebted to the said A. B. [*conclude as in the foregoing form.*]

(D)

Capias, Return, Bail, and Deposit.

County, ss. To any Constable of the Parish of .

You are hereby required to take the body of C. D. and him safely keep till he shall give good bail to answer the demand of A. B. for [*state the amount claimed in words*] in an action of debt for [*as in summons*] and to notify the said defendant that the cause will be heard before me, at my dwelling house in the Parish of , on the day of , at the hour

Oath for shillings.

Bail and Return.

I [or We, as the case may be] do hereby consent to become
bail for the within named C. D. in this suit.—Dated the
day of , 18 . R. S.

R. S.
T. V.

The within defendant was arrested and served with copy of the process on the day of , 18 , and bail was given for him by R. S. of [state the name, residence, and occupation of the bail.]

The within defendant was arrested and served with copy of this process on the _____ day of _____, 18 ____.

G. P. Constable.

I do hereby consent to become bail for the within named
C. D. in this suit. R. S.

R₁₂, M₂

Sum sworn to,	£0	0	0
Mileage,	0	0	0
For Costs,	0	0	0
	<hr/>		
	£0	0	0

(E)

Warrant of Commitment for want of Bail.

County, ss.

To any Constable of the Parish of , and to the Keeper
of the Common Gaol of the County of .

Whereas C. D. has been arrested and brought before me on a writ of habeas corpus issued by me (or by K. L. Esquire, Justice of the Peace).

Peace for the said County,) at the suit of A. B. upon oath, for shillings, and is unable to give bail or make deposit; these are to authorize and require you the said constable to convey the said defendant to the said gaol, and deliver his body to the said keeper, together with this warrant, and you the said keeper to receive the body of the said defendant, and him safely keep for days, unless sooner discharged by due course of law.—Given under my hand at the Parish of , the day of , 18 .

N. M. J. P.

(F)

Affidavit to be taken, if required, by any person appearing as Attorney for a party.

In the Court before N. M., Esquire, J. P.

Between { A. B. Plaintiff, and
C. D. Defendant.

J. K. of [state residence and occupation] who appears as Attorney (or agent) for the above named plaintiff (or defendant) maketh oath and saith, that his services rendered or to be so in this suit, are entirely gratuitous. J. K.

Sworn before me the day of , 18 .

N. M. J. P.

(G)

Subpæna issued by the Justice before whom the cause is pending.
County, ss.

To E. F., G. H., J. K., L. M., S. R., T. V.

You and every of you are required to appear before me at my dwelling house in the Parish of , on the day of , at the hour of in the noon, to give evidence on the part of the , in a suit now pending between A. B. plaintiff, and C. D. defendant, and then and there to be tried [if *duces tecum, add here,* and you the said E. F. are required to bring and produce at the trial, a certain promissory note, *describe the paper, book, or whatever it may be,*] and take notice that in case you neglect to appear and testify, you will be liable to the said for any damage he may sustain by reason of such neglect.—Dated the day of , 18 .

N. M. J. P.

Ticket of Memorandum of Subpæna.

Between } A. B. Plaintiff, and
} C. D. Defendant.

E. F. is required to give evidence in this suit on the part of the before me at my dwelling house in the Parish of , on the day of , at o'clock in the noon.

N. M. J. P.

To E. F. and G. H.

Whereas there is a suit pending between A. B. plaintiff, and C. D. defendant, and to be tried before N. M. Esquire, one of Her Majesty's Justices of the Peace for the County of , at his dwelling house in the Parish of , on the day of , at o'clock in the noon, you and each of you are hereby required to appear and give evidence in the said suit, at the time and place aforesaid, on the part of the , [*if a duces tecum, add here,*] and you the said E. F. &c. as before,] and take notice that if you neglect to appear and testify, you will be liable to the said for all damages he may sustain by reason of such neglect.—Dated the day of , 18 .

Y. Z. Justice of the Peace for the County of

Between } A. B. Plaintiff, and
} C. D. Defendant.

E. F. is required to give evidence in this suit, on the part of the , before N. M. Esquire, Justice of the Peace, at his dwelling house in the Parish of in the County of , on the day of , at o'clock in the noon.

Y. Z. J. P.

(H)

Venire and Return.

County, ss. To any Constable of the Parish of .

You are hereby required to summon three persons duly qualified to sit as jurors, and who are not of kin to either of the parties, to come before me at my dwelling house in the Parish of , on the day of at of the clock in the noon, to make a jury between A. B. plaintiff, and C. D. defendant.—Dated the day of , 18 .

N. M. J. P.

I have summoned the following persons as jurors for the trial of the within cause, G. H., J. K., L. M.

O. P. Constable.

(I)

Form of Oaths.

You shall truly say whether you have an interest, or can gain or lose by the event of this trial, and shall true answer make to all such questions as shall be asked of you touching your interest in this cause.—So help you God.

The evidence you shall give to the Court (*or to the Court and Jury sworn, as the case may be*) touching the matter in question, shall be the truth, the whole truth, and nothing but the truth.—So help you God.

You shall well and truly try this cause between A. B. plaintiff, and C. D. defendant, and a true verdict give according to the evidence.—So help you God.

You shall keep every one of this Jury sworn in some convenient place; you shall not suffer any person to speak to them, or either of them, neither shall you speak to them yourself, except it be to ask if they are agreed on their verdict, without leave of the Court.—So help you God.

(K)

Execution and Return.

County, ss. To any Constable of the Parish of .

You are hereby required to levy of the goods and chattels of C. D. within your Parish, shillings which A. B. recovered against him in the Court before me for , and also costs, amounting in the whole to , besides the costs of levying this execution, and have the money before me at my dwelling house, on the day of , to be rendered to the said A. B. For want of goods and chattels whereon to levy, you will take the body of the said C. D. and deliver him to the keeper of the gaol of the said County, and the said keeper will take the said C. D. into his custody, and him safely keep for days, unless the said and costs be sooner paid; and how you shall have executed this precept make return to me at the day and place aforesaid.—Given under my hand this day of , 18 .

N. M. Justice of the Peace for
the County of .

NOTE.—If the execution be against two or more, and all have not been served with process or appeared, the execution will only be against the goods and body of him who was served or appeared.

The Justice must insert the number of days of imprisonment, being one day for every two shillings due on the judgment: If part of the money have been levied, a memorandum shall be endorsed on the execution, stating the balance due and days of imprisonment thus:—

Balance due, thirteen shillings.

Days of imprisonment, six.

County, ss. To any Constable of the Parish of .

You are hereby required to levy of the goods and chattels of C. D. within your Parish, which A. B. recovered against , in the Court before me for debt, (or damages) and also costs, amounting in the whole to , besides the costs of levying this execution, and have the money before me at my dwelling house on the day of , to be rendered to the said A. B. and have there then this precept. Given under my hand the day of , 18 .

N. M. Justice of the Peace for
the County of .

The return of the within execution is enlarged to the day of , 18 .

N. M. J. P.

I have levied the damages and costs as within directed.

O. P. Constable.

For want of goods and chattels whereon to levy, I have taken the body of the within named C. D., and delivered him to the keeper of the gaol, as within directed.

O. P. Constable.

I could not find any goods, or the body of the said C. D.

O. P. Constable.

The separate property of the within E. F. is not to be levied on.

N. M. J. P.

(L)

*Summons against Constable for not returning Execution, or
not paying over money levied.*

County, ss. To any Constable of the Parish of
Whereas on the day of an execution for
damages and costs on a judgment recovered by A. B.
against C. D. before me, was delivered to O. P. one of the
Constables of the said Parish of , returnable on the
day of : And whereas the said O. P. has [not made
return of the said execution] as by law directed, you are hereby
required to summon the said O. P. to appear before me at my
dwelling house in the said Parish, on the day of , at
of the clock in the noon, to answer to the said
A. B. for the said damages and costs, with interest, and make
return hereof according to law.—Dated the day of

NOTE.—If the suit is for not having paid over the money, omit the words between the brackets, and say, levied and not paid over the money.

(M)

Summons against Bail.

County, ss. To any Constable of the Parish of .

You are hereby required to summon R. S. to appear before me at my dwelling house in the Parish of _____, on the day of _____, at _____ of the clock in the _____ noon, to answer the demand of A. B. for [state the sum for which the bail is liable, namely, the amount sworn to in the original action, and costs awarded], which the said A. B. lately recovered in the Court before me against C. D. and for which sum the said R. S. is liable as bail for the said C. D. as is alleged; and make return hereof forthwith as by law directed.—Dated the day of _____, 18 _____. N. M. J. P.

(N)

Form of proceeding on Review.

Cause, Tried before E. F. Esquire, one of the Justices of
A. B. the Peace in and for the County of , at
vs. in the said County, on the day of ,
C. D. A. D. 18 .

The Justice's report of the evidence, cause of action, grounds

of defence, and judgment in this cause, having been laid before me, with the affidavit of , and it appearing to me that substantial justice has not been done to the said , [or that the Justice has acted wholly without jurisdiction, *as the case may be,*] I appoint the day of next, at o'clock in the noon, at my in as the time and place for hearing the parties on review.—Dated the day of , 18 .

G. S. J. S. C.

(O)

Attachment.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c.

To our Sheriff of , Greeting :

We command you that you attach L. M. so that you may have his body before us at Fredericton on [*a return day in the ensuing Term*] to answer to us for a certain trespass and contempt, in not paying to I. K. the sum of for , awarded to the said I. K. by Esquire, one of the Justices of our Supreme Court, in a certain matter of review lately pending before the said Justice, pursuant to the Act of Assembly in such case made and provided, and have there then this Writ.—Witness James Carter, Esquire, Chief Justice at Fredericton, the [*day it issued*].

By order of Mr. Justice .

CARMAN.

(P)

Warrant of Commitment for contempt.

County, ss. To any Constable of the Parish of .

Whereas X. Y. has been guilty of insolent behaviour towards me, in the trial of a cause between A. B. plaintiff, and C. D. defendant, tending to interrupt the proceedings in the said cause, and was thereupon for such contempt adjudged to be imprisoned hours in the common gaol of the said County: These are therefore to require you, the said constable, to take the said X. Y. and convey his body to the gaol of the said County, and there deliver him to the keeper of the said gaol, together with this warrant; and you, the said keeper, are

hereby required to keep in your custody the said X. Y. for the said term of hours, and hereof fail you not.—Given under my hand and seal the day of , 18 .

N. M. J. P.

NOTE.—The Justice will alter the statement of the offence in the foregoing form, so as to suit the facts of the case, taking care to state the offence according to this Chapter.

CHAPTER 138.

OF SUMMARY CONVICTIONS. *before Justices*

Section.

1. When Justice may issue summons. Service. Objections.
2. When he may issue warrant; subsequent proceedings.
3. Service of warrant; bail.
4. Provision of certain Sections, when applicable.
5. In what Counties accessories to be proceeded against.
6. Mode of compelling attendance of witnesses.
7. Order for payment of money, how made.
8. Within what time information to be laid.
9. Informations, how and before whom to be heard and tried.
10. The prosecutor not appearing, effect of.
11. When Justice to convict, &c. What to be a bar.

Section.

12. Adjournment, and proceedings thereupon.
13. Form of conviction, &c., how to be drawn.
14. Proceedings on conviction or order.
15. When party may be committed.
16. When and for what party may be detained.
17. On return of distress warrant, how party may be imprisoned.
18. When warrant to be issued for imprisonment.
19. On what other order he may be imprisoned.
20. On dismissal with costs, how to be levied.
21. The power of one Justice.
22. Application of moneys.
23. What persons, &c., not to extend to.
24. Forms to be deemed good.

1. When information (A) shall be laid before a Justice that any person has committed, or is suspected to have committed any offence punishable by summary conviction before him, or upon which such person may be liable to an order for the payment of money, or otherwise, the Justice may issue his summons (B), requiring such person to appear at a certain time and place before the Justice, who shall then be there, to answer to the matter of the information, which shall be served by a constable, or by leaving a copy of the same with some adult member of his household; the constable shall attend at the return thereof to prove the service; no objection shall be allowed to any information or summons for any defect therein in substance or form, or for any variance between such information or summons and the evidence, unless the party summoned has been misled, when the Justice may adjourn the hearing to a future day.

2. If the person served shall not appear before the Justice

at the return, and it shall be made to appear to such Justice on oath, that such summons was served in a reasonable time, such Justice may, upon oath being made of the truth of such information, issue his warrant (C) to apprehend the party, and bring him before the Justice, or some other Justice, to answer to the said information; or may instead of such summons as aforesaid, issue in the first instance his warrant (D) for apprehending such party, and bringing him before the Justice, or some other Justice, to answer to the said information; but when a summons shall be issued as aforesaid, and the parties fail to appear in obedience thereto, such Justice may proceed to the hearing of such information or complaint, and adjudicate thereon as if such party had appeared to the said summons.

3. Every such warrant shall be under the hand of the Justice issuing the same, and be directed to any constable of the County in which it is to be executed, and shall state shortly the matter of the complaint or information, and name or otherwise describe the party against whom issued, and order the constable to apprehend and bring him before the Justice, who shall be then there, to answer the said information or complaint; and it shall not be necessary to make such warrant returnable at any particular time, but the same may remain in full force until executed, which may be done at any place within the Province; but no objection shall be allowed that would not be valid as in the case of the summons; and in the mean time to commit (E) or discharge him upon his entering into a recognizance (F) with or without sureties, conditioned for his appearance at the hearing; but if the defendant shall be discharged upon a recognizance as aforesaid, and shall not afterwards appear agreeably thereto, the said Justice, or any Justice who may be present, upon certifying (G) on the said recognizance that the defendant has made default, shall transmit such recognizance to the Clerk of the Crown, and such certificate shall be evidence of such default.

4. The provisions of Sections 12, 13, and 14, in Chapter 158, of Title XLI, shall apply to any proceeding under this Chapter when the same may be applicable.

5. Every person who shall aid or procure the commission of any offence punishable on summary conviction, shall be liable

to be proceeded against in the County where the principal is convicted, or the offence committed, together with the principal offender, before or after his conviction, and be liable on conviction to the same forfeiture and punishment as such principal offender may by law be liable to.

6. If it shall appear to any Justice by the oath of any person, that any person within the jurisdiction of such Justice is likely to give material evidence in behalf of the prosecution, or defendant, and will not appear to be examined as a witness at the hearing of such information, such Justice shall issue a summons (H), requiring him to appear and testify at the hearing; if after service thereof, as in the case of a summons against the party, he, without just excuse, do not appear and testify, the Justice may issue his warrant (I) to compel his appearance at the hearing, which may be any where in the Province. The warrant (J) may be issued in the first instance, if the Justice shall be satisfied by evidence on oath, that the witness will not attend without being compelled, and may also be executed as aforesaid. If on the appearance of the witness he refuse to be examined on oath, the Justice may commit (K) him for any time not exceeding seven days.

7. Whenever a Justice may make an order for the payment of money or otherwise, it need not be in writing unless required by law.

8. Every information under this Chapter shall be laid within six months from the time when the matter thereof arose, unless already provided for by law.

9. Every information shall be heard and determined, when not otherwise directed by any Act or Statute, by any Justice where the matter of the information shall have arisen; and the place of trial shall be deemed an open Court, to which all persons may have free access; and the parties in person, or by counsel, may conduct and defend their causes; no prosecutor shall be an incompetent witness on the ground only that he may be liable to costs.

10. If the prosecutor of any information shall not in person, or by his counsel, or agent, appear at the hearing, and proceed therewith, the Justice shall dismiss the information with costs.

11. When the defendant shall be present at the hearing, the substance of the information shall be stated to him, and if he

admit the truth thereof, and shew no sufficient defence, the Justice shall convict, or make an order against him ; but if he do not admit the truth of such information, the Justice shall hear the parties, and any evidence that may be produced, after which he shall convict, or make an order upon the defendant, or dismiss the information, as the case may be ; and if he convict, or make an order against the defendant, a minute shall be made, and the conviction (L M) or order (N O) shall afterwards be drawn up by the Justice, under his hand, lodged with the Clerk of the Peace, and filed in his office ; but if the Justice shall dismiss such information, he may make an order of dismissal thereof (P), and give the defendant a certificate (Q), in that behalf, which shall be a bar to any subsequent information for the same matter against the same party.

12. The Justice at the hearing may adjourn the same to such time as he in his discretion shall think fit, and in the mean time suffer the defendant to go at large, or commit (E), or discharge him upon his entering into the recognizance (F), with or without sureties, conditioned for his appearance at the adjourned hearing ; and if then both or either of the parties shall not appear, the Justice then present may proceed to such further hearing as if the parties were present ; or if the prosecutor shall not appear, the Justice may dismiss the information, with or without costs ; but when a defendant shall be discharged on recognizance, and do not appear in pursuance thereof, the Justice, or any other Justice present, upon certifying (G) on the back of the recognizance, the default of the defendant, may transmit such recognizance to the Clerk of the Crown, and the certificate shall be evidence of such default.

13. Where no form of conviction is given, the Justice shall draw up one according to forms (L M) applicable to such case, or to the like effect, and where no form or order shall be given, the Justice shall draw up one according to the forms (N O) applicable to such case, or to the like effect.

14. Where a conviction adjudges a penalty, or an order requires a sum of money to be paid, and by the Act or Statute authorizing the conviction or order, the same is to be levied upon the goods of the defendant by distress and sale thereof, and where no mode of levying such sum of money is provided, the Justice may issue his warrant of distress (R S) to levy

the same; and if after delivery of the warrant to the constable, sufficient distress shall not be found, and goods may be found in any other County, the warrant may be executed in such County, and the same or any other constable to whom the same may be delivered, shall levy the money and all costs on such goods.

15. But if it appear to the Justice that the issue of such warrant would be ruinous to the defendant and his family, he may commit such defendant to the common gaol, with or without hard labour, as by law such defendant might have been committed if such warrant had issued, and no goods could be found whereon to levy.

16. On a warrant of distress issued, the Justice may suffer the defendant to go at large, or verbally, or by a written warrant, order him to be detained in custody until return be made to the warrant of distress, unless security be given by recognizance, or otherwise, for his appearance before him or some other Justice at the return of the warrant of distress; but where a defendant shall give security by recognizance, and shall not afterwards appear according to its condition, the Justice who took the same, or other Justice, upon certifying (G) on the recognizance the default of the defendant, may transmit the same to the Clerk of the Crown, and the certificate shall be evidence of such default.

17. If at the return of the warrant of distress the constable return (T) to the Justice who issued it that he could find no goods or chattels whereon to levy the same, such Justice may grant his warrant of commitment (U), directed to any constable, to convey the defendant to the common gaol, and the keeper to receive and then to imprison him, or to imprison and keep him to hard labour, as shall have been directed by the Act or Statute on which the proceedings were founded, or when no term of imprisonment is therein mentioned, for a time not exceeding three months, unless the sum adjudged and all costs and charges shall be sooner paid.

18. When the Act or Statute directs that he shall be imprisoned, or imprisoned and kept to hard labour for a certain time, unless the sums mentioned in the conviction shall be sooner paid, if the defendant do not pay the same, together with costs, if awarded, the Justice, or other Justice making the conviction or

order, shall issue his warrant of commitment (V), requiring the constable to take and convey such defendant to the common gaol, and deliver him to the keeper thereof, and such keeper to receive the defendant into such gaol and there imprison him, with or without hard labour, as the case may be, for such time as the Act or Statute directs, or if no time be specified, then for a term not exceeding three months, unless the sum adjudged and the costs and charges shall be sooner paid.

19. When an order is not for the payment of money, but for the doing of some act, and directs that on the defendant's neglect or refusal to do such act, he shall be imprisoned with or without hard labour, and the defendant neglects or refuses to do such act, the Justice making the order, or other Justice, may on such neglect or refusal, issue his warrant of commitment (X), requiring the constable to take the defendant to the common gaol, and deliver him to the keeper thereof, and such keeper to receive him into such gaol, and imprison him in obedience thereto; and when by the order any sum for costs shall be adjudged to be paid by the defendant, such sum may be levied by warrant of distress (R S) in manner aforesaid, and in default of distress, the defendant may be committed (R S) to the common gaol in manner aforesaid, for a time not exceeding one month, to commence at the termination of the imprisonment he may then be undergoing, unless such sum and all costs and charges shall be sooner paid.

20. Where any information or complaint shall be dismissed with costs, the same may be levied by distress (R S) on the goods and chattels of the prosecutor in manner aforesaid, and in default of payment on distress the prosecutor may be committed (R S) to the common gaol in manner aforesaid for any time not exceeding one month, unless such sum and all costs and charges shall be sooner paid.

21. In all summary proceedings before a Justice upon any information, he may receive such information, grant a summons or warrant thereon, and also issue a summons or warrant for any witnesses, and do all other necessary acts preliminary and subsequent to the hearing, even in cases where by the Act or Statute the information must be heard and determined by two or more Justices; but where by an Act or Statute it shall be required that a conviction or order shall be made by two or

more Justices, they must be present and acting together during the whole of the hearing and determination of the case.

22. All sums received by any officer under any of the foregoing proceedings shall be paid by him to the County Treasurer for County contingencies, except such part thereof as any person may be legally entitled to.

23. This Chapter shall not extend to or affect the Portland and Saint John Police, or Lunatics, Her Majesty's Revenue or Customs, Post Office, or Bastardy cases, except in the execution of warrants.

24. The several forms in the Schedule to this Chapter contained, or forms to the like effect, shall be deemed good in law.

SCHEDULE.

(A)

Information.

to wit. The complaint of C. D. of , taken and sworn this day of , A. D. 18 , before me, who saith that [here state the offence.]

J. C. J. P.

(B)

Summons to the Defendant upon an Information or Complaint.

To A. B. of , [Labourer].

Whereas information hath this day been laid, (or complaint hath this day been made), for that you [here state shortly the matter of the information or complaint], these are therefore to command you to appear on at o'clock in the forenoon, at , before such Justice as may then be there, to answer the said information (or complaint), and to be further dealt with according to law.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

(C)

Warrant when the Summons is disobeyed.

To any Constable of the County of .

These are to command you forthwith to apprehend A. B. and to bring him forthwith before me, or some other Justice who may then be there, to answer to the information (or complaint)

in which a summons has issued, but the said A. B. has not appeared, and to be further dealt with according to law.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

(D)

Warrant in the first instance.

To any Constable of .

Whereas information hath been laid before the undersigned for that A. B. [*here state shortly the matter of the information*], these are therefore to command you forthwith to apprehend the said A. B. and to bring him before me, or some other Justice, to answer to the said information, and be further dealt with according to law.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

(E)

Commitment for safe custody during an adjournment of the hearing.

To W. T. Constable of , and to the Keeper of the common gaol at .

These are to command you the said constable forthwith to convey A. B. to the common gaol at , and you the keeper to receive the said A. B. in the said common gaol, and there safely keep him until the day of instant, when you will have him the said A. B. at the time and place to which the hearing of a certain information against the said A. B. is adjourned, before such Justice as may then be there, to answer further to the said information, and to be further dealt with according to law.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

(F)

Recognizance for the appearance of the Defendant when the case is adjourned or not at once proceeded with.

Be it remembered that A. B. of , [Labourer] and L. M. of , [Grocer] personally came before me and severally acknowledged themselves bound to the Queen in the several sums following, viz: the said A. B. of the sum of ,

and the said L. M. of the sum of , to be levied of their several goods and chattels, lands and tenements, respectively, to the use of the Queen, if he the said A. B. shall not personally appear on the day of instant, at o'clock in the forenoon, at , before such Justice as may then be there, to answer further to the information of C. D. against the said A. B., and to be further dealt with according to law, then the said recognizance to be void, or else to stand in full force and virtue.

J. S.

(G)

Certificate of non-appearance to be endorsed on the Defendant's Recognizance.

I certify that A. B. hath made default on the within recognizance.

J. S.

(H)

Summons of a Witness.

To E. F. of , in the County of .

Whereas information was laid before the undersigned for that [&c. as in the Summons], and it hath been made to appear to me upon oath that you are likely to give material evidence on behalf of the (prosecutor or complainant or defendant) in this behalf; These are therefore to require you to appear on at o'clock in the forenoon, before such Justice as may then be there, to testify what you know concerning the matter of the said information.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

(I)

Warrant where a Witness has not obeyed a Summons.

These are to command you to take E. F. and to bring him on the day of , at o'clock in the forenoon, at , before such Justice as may then be there, to testify what he shall know concerning a certain matter of information against A. B., the said witness having been duly summoned, and his expenses tendered, but neglecting to appear.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

(J)

Warrant for a Witness in the first instance.

To the Constable of , in the County of .

Whereas information was laid before the undersigned for that [*as in the Summons*], and it being made to appear before me upon oath, that it is probable E. F. of , [*Labourer*] can give material evidence in behalf of the [*prosecutor*] in this matter, and that the said E. F. will not attend to give evidence without being compelled so to do; These are therefore to command you to bring the said E. F. before me on at o'clock in the forenoon, at , or before such other Justice as may then be there, to testify what he shall know concerning the matter of the said information.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

(K)

Commitment of a Witness for refusing to be sworn in evidence.

To W. T. Constable of , in the County of , and to the Keeper of the gaol at .

These are to command you the said constable to take E. F. and him safely convey to the common gaol at aforesaid; and I do hereby command you the said keeper of the said gaol to receive the said E. F. into your custody in the said gaol, and there imprison him for his contempt in refusing to be sworn (*or as the case may be*) as a witness, touching a certain information before me, against A. B. for the space of days, unless he shall consent to be examined, and to answer concerning the premises; and for your so doing this shall be your sufficient warrant.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

(L)

Conviction for a penalty to be levied by distress, and in default of sufficient distress, imprisonment.

to wit.

Be it remembered that on the day of , in the year of our Lord , at in the said County, A. B. is convicted before the undersigned for that (he the said A. B. &c. stating the offence and the time and place when and

where committed); and I adjudge the said A. B. for his said offence, to forfeit and pay the sum of [stating the penalty and also the compensation if any], to be paid and applied according to law, and also to pay the said C. D. the sum of

, for his costs in this behalf; and if the said several sums be not paid forthwith, on or before next I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress [*in case of imprisonment without distress leave out the distress*],* I adjudge the said A. B. to be imprisoned in the common gaol at in the said County, (*there to be kept at hard labour*) for the space of , unless the said several sums and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said common gaol, shall be sooner paid.—Given under my hand the day and year first above mentioned.*

J. S. J. P.

*NOTE.—Or where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks ** say—then inasmuch as it hath now been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family, or that the said A. B. hath no goods or chattels whereon to levy the said sums by distress, I adjudge, &c. as above, to the end.*

(M)

Conviction when the punishment is by imprisonment, &c.

to wit.

Be it remembered that on the day of , in the year of our Lord , in the said County, A. B. is convicted before the undersigned, for that (he the said A. B. &c. stating the offence, and the time and place when and where committed); and I adjudge the said A. B. for the said offence to be imprisoned in the common gaol at in the said County, (*and there kept to hard labour*) for the space of ; and I also adjudge the said A. B. to pay the said C. D. the sum of

for his costs in this behalf; and if the said sum for costs be not paid forthwith, (or on or before next), then I*

order that the said sum be levied by distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress in that behalf,* I adjudge the said A. B. to be imprisoned in the said common gaol, and there to be kept to hard labour for the space of , to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.—Given under my hand the day and year first above mentioned.

J. S. [L.S.]

NOTE.—*Or where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks ** say—inasmuch as it hath now been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family, or that the said A. B. hath no goods or chattels whereupon to levy the said sum for costs by distress, I adjudge, &c.*

(N)

Order for payment of money to be levied by distress, and in default of distress, imprisonment.

to wit.

Be it remembered that on made before the undersigned [*stating the facts entitling the complainant to the order, with the time and place when and where they occurred*]; and now on this day to wit, on , at , the parties aforesaid appear before me the said Justice, (*or the said C. D. appears before me the said Justice*), but the said A. B. although duly called, doth not appear by himself, his counsel, or attorney, and it is now satisfactorily proved to me on oath, that the said A. B. has been duly served with a summons in this behalf, which required him to be and appear here this day before me, or should now be here to answer the said complaint, and to be further dealt with according to law; and now having heard the matter of the said complaint, I do adjudge the said A. B. (*to pay the said C. D. the sum of forthwith, or on or before next, or as the case may require*); and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith, (*or on or before next*),* I hereby order that the same be levied by

distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress in that behalf, [*in case of imprisonment without distress, leave out the distress,*] * I adjudge the said A. B. to be imprisoned in the common gaol at , in the said County, (and there be kept to hard labour) for the space of , unless the said several sums, and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said common gaol, shall be sooner paid.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

NOTE.—*Or where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks ** say—then inasmuch as it hath now been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A.B. and his family, or that the said A. B. hath no goods or chattels whereon to levy the said sums by distress, I adjudge, &c.*

(O)

Order for any other matter where the disobeying of it is punishable with imprisonment.

to-wit.

Be it remembered that on complaint was made before the undersigned [*stating the facts entitling the complainant to the order, with the time and place when and where they occurred;*] and now at this day, to wit, on , at , the parties aforesaid appear before me the said Justice, (*or the said C. D. appears before me the said Justice*), but the said A. B. although duly called, doth not appear by himself, his counsel, or attorney, and it is now satisfactorily proved to me upon oath that the said A. B. has been duly served with the summons in this behalf, which required him to be and appear here at this day before such Justice as shall now be here, to answer to the said complaint, and to be further dealt with according to law; and now having heard the matter of the said complaint, I do adjudge the said A. B. to [*here state the matter required to be done*], and if upon a copy of a minute of this order being served upon the said A. B., either personally or by leaving the

same for him at his last or most usual place of abode, he shall neglect or refuse to obey the same, in that case I adjudge the said A. B. for such his disobedience to be imprisoned in the common gaol at in the said County, (there to be kept to hard labour) for the space of , (unless the said order be sooner obeyed, *if the Statute authorize this*) ; and I do also adjudge the said A. B. to pay to the said C. D. the sum of for the costs in this behalf; and if the said sum for costs be not paid forthwith, (*or on or before* next) I do order the same to be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress in that behalf, I adjudge the said A. B. to be imprisoned in the said house of correction, (and there kept to hard labour) for the space of , to commence at and from the termination of his imprisonment aforesaid, unless the said sum of shall be sooner paid.—Given under my hand this day of , in the year of our Lord .

J. S. [L. S.]

(P)

*Order of dismissal of an information or complaint.
to wit.*

Be it remembered that on information was laid before the undersigned for that [*&c. as in the Summons to the defendant*], and now at this day, to wit, on , at , both the said parties appear before me in order that I should hear and determine the said information, (*or* the said A. B. appeareth before me, but the said C. D., although duly called, doth not appear), whereupon the matter of the said information being by me duly considered, (it manifestly appears to me that the said information is not proved, and*) I do therefore dismiss the same, and adjudge that the said C. D. do pay to the said A. B. the sum of for his costs incurred by him in his defence in this behalf; and if the said sum for costs be not paid forthwith, (*or on or before* ,) I order that the same be levied by distress and sale of the goods and chattels of the said C. D., and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the common gaol at , in the said County, (and there kept to hard labour) for the space of , unless the said sum for costs, and all costs and charges of the said distress, (and of the com-

mitment and conveying of the said C. D. to the said common gaol) shall be sooner paid.—Given under my hand this day of , in the year of our Lord .

J. S. [L. S.]

**If the informant or complainant do not appear, these words may be omitted.*

(Q)

Certificate of dismissal.

I hereby certify that an information preferred by C. D. against A. B. for that [*&c. as in the Summons*] was this day considered by me, and was by me dismissed (with costs).—Dated this day of , 18 .

J. S.

(R)

Warrant of Distress upon a conviction for a penalty.

These are to command you forthwith to make distress of the goods and chattels of A. B. and if within the space of days next after the making thereof, the sum of and costs ordered to be paid to C. D. on a certain conviction before me, together with the charges of taking and keeping the distress, shall not be paid, that then you do sell the said goods and chattels, and pay the money arising by such sale unto the Treasurer of the said County, to be applied as by law directed, and render the overplus (if any) on demand, to the said A. B.; and if no such distress can be found, then that you certify to me your doings.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

(S)

Warrant of Distress upon an Order for payment of money.

These are to command you to make distress of the goods and chattels of A. B. for the sum of and costs, ordered to be paid on a certain conviction before me against the said A. B., and if within the space of days after the making of such distress, the said last mentioned sums, together with the charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto the Treasurer for the said County, to be applied as

by law directed, and render the overplus (if any) on demand, to the said A. B.; and if no such distress can be found, then that you certify to me your doings.—Given under my hand this day of , in the year of our Lord

J. S. [L.S.]

(T)

Constable's Return to a Warrant of Distress.

I W. T. Constable of , in the County of , do hereby certify, that by virtue of this warrant I have made diligent search for the goods and chattels of the within mentioned A. B., and can find none whereon to levy.—Witness my hand this day of , 18 .

W. T.

(U)

Warrant of a Commitment for the want of distress.

To any Constable and Keeper of the Gaol of the County of .

These are to command you to take A. B. and him safely convey to the common gaol at aforesaid, and there deliver him to the keeper thereof; and you the said keeper to receive the said A. B. into your custody, and imprison him (and keep him to hard labour) for the space of , unless the said several sums of and costs heretofore ordered to be levied by distress on a certain conviction before me for [*shortly stating the offence*], but no distress being found, and all the costs and charges of the said distress (and of the commitment and conveying of the said A. B. to the said common gaol, amounting to the further sum of) shall be sooner paid unto you the said keeper, and for so doing this shall be your warrant.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

(V)

Warrant of Commitment upon a conviction for a penalty in the first instance.

To the Constable and Keeper of the Common Gaol of the County of .

These are to command you the said constable to take A. B. and him safely to convey to the common gaol at , and

there to deliver him to the keeper thereof; and you the said keeper of the said common gaol to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him to hard labour) for the space of , unless the several sums of and costs, for which the said A. B. has been duly convicted before me for [*shortly stating the offence*], (and the costs and charges of conveying him to the said common gaol, amounting to the further sum of) shall be sooner paid, and for so doing this shall be your sufficient warrant.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

(X)

Warrant of Commitment on an Order in the first instance.

To the Constable and Keeper of the Common Gaol of the County of .

These are to command you the said constable to take A. B. and him safely convey to the said common gaol at aforesaid, and there deliver him to the keeper thereof; and you the said keeper to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him to hard labour) for the space of , unless the several sums of and costs, which the said A. B. has been ordered by me to pay to C. D. for [*shortly stating the offence*] (and the costs and charges of conveying him to the said common gaol, amounting to the further sum of) shall be sooner paid unto you the said keeper.—Given under my hand this day of , in the year of our Lord .

J. S. [L.S.]

TITLE XXXVIII.

OF REMEDIES IN CERTAIN CASES.

CHAPTER 139.

OF THE LIMITATION OF ACTIONS IN REAL PROPERTY.

Section,

1. Limitation of actions by the Crown.
2. Definition of terms.
3. When entry may be made.

Section.

4. When right to make entry first accrues.
5. When right to make entry in case of forfeiture, &c.

Section.

6. When in case of estate in reversion.
 7. When administrator may claim.
 8. Right to enter when tenancy at will.
 9. When a tenancy from year to year.
 10. When after the determination of lease.
 11. When not deemed to be in possession.
 12. What claim shall not preserve right.
 13. The possession of a co-tenant, how it affects that of his partner.
 14. When acknowledgement of title good.
 15. When action may be maintained in case of non-adverse possession.
 16. Where disabilities, when party may sue.
 17. When absolutely barred.
 18. After death, when action may be brought.
 19. What not deemed beyond seas.
 20. When party in remainder, &c., may sue.
21. Suits in equity when barred.
 22. When right of cestuique trust, &c., for trust estate.
 23. Right to recover in case of fraud, when innocent party, how affected.
 24. Rule in equity as to acquiescence not to be affected.
 25. Rules in case of mortgages.
 26. Remedy extinguished after lapse of time to sue.
 27. Receipt of rent, effect of.
 28. What action shall not be brought.
 29. Limitation of right to sue for money secured by mortgage, &c.
 30. When mortgagee may make an entry after part payment, &c.
 31. Limitation for arrears of dower.

1. No claim for lands or rent shall be made, or action brought by Her Majesty, after a continuous adverse possession of sixty years.

2. The words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Chapter, except where the nature of the provision or the context of the Chapter shall exclude such construction, be interpreted as follows, that is to say :— The word “land” shall extend to messuages and all other corporeal hereditaments whatsoever, and also to any share, estate, or interest in them or any of them, whether the same shall be a freehold or chattel interest; and the person through whom another person is said to claim, shall mean any person by, through, or under, or by the act of whom the person so claiming became entitled to the estate or interest claimed as heir, issue in tail, tenant by the courtesy of England, tenant in dower, successor, special or general occupant, executor, administrator, legatee, husband, assignee, appointee, devisee, or otherwise; and the word “person” shall extend to a body politic, corporate, or collegiate, and to a class of creditors or other persons, as well as an individual; and every word importing the singular number only, shall extend and be applied to several persons or things as well as one person or thing, and every word importing the masculine gender only, shall extend and be applied to a female as well as a male.

3. No person shall make an entry, or bring an action to recover any land, but within twenty years next after the time at which the right to make such entry, or to bring such action, shall have first accrued to some person through whom he

claims ; or if such right shall not have accrued to any person through whom he claims, then within twenty years next after the time at which the right to make such entry, or to bring such action, shall have first accrued to the person making or bringing the same.

4. In the construction of this Chapter, the right to make an entry, or bring an action to recover any land, shall be deemed to have first accrued at such time as hereinafter is mentioned, that is to say :—When the person claiming such land, or some person through whom he claims, shall, in respect of the estate or interest claimed, have been in possession, or in receipt of the profits of such land, and shall while entitled thereto have been dispossessed, or have discontinued such possession or receipt, then such right shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession, or at the last time at which any such profits were so received ; and when the person claiming such land shall claim the estate or interest of some deceased person who shall have continued in such possession or receipt in respect of the same estate or interest until the time of his death, and shall have been the last person entitled to such estate or interest who shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death ; and when the person claiming such land shall claim in respect of an estate or interest in possession, granted, appointed, or otherwise assured by any instrument (other than a Will) to him, or some person through whom he claims, by a person being in respect of the same estate or interest in the possession or receipt of the profits of the land, and no person entitled under such instrument shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time at which the person claiming as aforesaid, or the person through whom he claims, became entitled to such possession or receipt by virtue of such instrument ; and when the estate or interest claimed shall have been an estate or interest in reversion or remainder, or other future estate or interest, and no person shall have obtained the possession or receipt of the profits of such land in respect of such estate or interest, then such right shall be deemed to have first accrued at the time at which such estate

or interest became an estate or interest in possession; and when the person claiming such land, or the person through whom he claims, shall have become entitled by reason of any forfeiture or breach of condition, then such right shall be deemed to have first accrued when such forfeiture was incurred, or such condition was broken.

5. But when any right to make an entry, or to bring an action to recover any land, by reason of any forfeiture or breach of condition, shall have first accrued in respect of any estate or interest in reversion or remainder, and the lands shall not have been recovered by virtue of such right, the right to make an entry or bring an action to recover such land shall be deemed to have first accrued in respect of such estate or interest, at the time when the same shall have become an estate or interest in possession, as if no such forfeiture or breach of condition had happened.

6. A right to make an entry, or to bring an action to recover any land, shall be deemed to have first accrued, in respect of an estate or interest in reversion, at the time at which the same shall have become an estate or interest in possession, by the determination of any estate or estates in respect of which such land shall have been held, or the profits thereof shall have been received, notwithstanding the person claiming such land, or some person through whom he claims, shall at any time previously to the creation of the estate or estates which shall have determined, have been in possession or receipt of the profits of such land.

7. For the purposes of this Chapter, an administrator claiming the estate or interest of the deceased person of whose chattels he shall be appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration.

8. When any person shall be in possession, or in receipt of the profits of any land as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or bring an action to recover such land, shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time

such tenancy shall be deemed to have determined; but no mortgagor or cestuique trust shall be deemed to be a tenant at will within the meaning of this clause, to his mortgagee or trustee.

9. When any person shall be in possession, or in receipt of the profits of any land as tenant from year to year, or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or bring an action to recover such land, shall be deemed to have first accrued at the determination of the first of such years, or other periods, or at the last time when any rent payable in respect of any such tenancy shall have been received (which shall last happen).

10. When any person shall be in possession, or in receipt of the profits of any land, by virtue of a lease in writing, by which a rent amounting to the yearly sum of twenty shillings or upwards shall be reserved, and the rent reserved by such lease shall have been received by some person wrongfully claiming to be entitled to such land in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease shall afterwards have been made to the person rightfully entitled thereto, the right of the person entitled to such land, subject to such lease, or of the person through whom he claims, to make an entry or to bring an action after the determination of such lease, shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid; and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled.

11. No person shall be deemed to have been in possession of any land within the meaning of this Chapter, merely by reason of having made an entry thereon.

12. No continual or other claim upon or near any land, shall preserve any right of making an entry or of bringing an action.

13. When any one or more of several persons entitled to any land as co-parceners, joint tenants, or tenants in common, shall have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land, or of the profits thereof, for his or their own benefit, or for the

benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last mentioned person or persons, or any of them.

14. When any acknowledgment of the title of the person entitled to any land shall have been given to him or his agent in writing, signed by the person in possession, or in receipt of the profits of such land, then such possession or receipt of or by the person by whom such acknowledgment shall have been given, shall be deemed according to the meaning of this Chapter to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment shall have been given, at the time of giving the same, and the right of such last mentioned person, or any person claiming through him, to make an entry or to bring an action to recover such land, shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments, if more than one was given.

15. When no such acknowledgment shall have been given before the time appointed for this Chapter to take effect, and the possession or receipt of the profits of the land shall not, at such time, have been adverse to the right or title of the person claiming to be entitled thereto, then such person, or the person claiming through him, may, notwithstanding the period of twenty years hereinbefore limited shall have expired, make an entry, or bring an action to recover such land at any time within five years next after the time first aforesaid.

16. If at the time at which the right of any person to make an entry, or bring an action to recover any land, shall have first accrued as aforesaid, such person shall have been under any of the disabilities hereinafter mentioned, that is to say, infancy, coverture, idiocy, lunacy, unsoundness of mind, or absence beyond seas, then such person, or the person claiming through him, may, notwithstanding the period of twenty years hereinbefore limited shall have expired, make an entry, or bring an action to recover such land at any time within ten years next after the time at which the person to whom such right shall first have accrued as aforesaid, shall have ceased to be under any such disabilities, or shall have died (which shall have first happened).

17. No entry or action shall be made or brought by any person who, at the time at which his right to make an entry, or bring an action to recover any land shall have first accrued, shall be under any of the disabilities hereinbefore mentioned, or by any person claiming through him, but within forty years next after the time at which such right shall have first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such forty years, or although the term of ten years from the date at which he shall have ceased to be under any such disability, or have died, shall not have expired.

18. When any person shall be under any of the disabilities hereinbefore mentioned at the time at which his right to make an entry, or bring an action to recover any land, shall have first accrued, and shall die without having ceased to be under any such disability, no time to make an entry, or to bring an action to recover such land beyond the said period of twenty years next after the right of such person to make such entry, or to bring such action, shall have first accrued, or the said period of ten years next after the time at which such person shall have died, shall be allowed by reason of any disability of any other person.

19. No part of the British North American Provinces, nor of the United States of America, shall be deemed to be beyond seas within the meaning of this Chapter.

20. When the right of any person to make an entry, or bring an action to recover any land to which he may have been entitled, for an estate or interest in possession, shall have been barred by the determination of the period hereinbefore limited, which shall be applicable in such case, and such person shall at any time during the same period have been entitled to any other estate, interest, right, or possibility in reversion, remainder, or otherwise, in or to the same land, no entry or action shall be made or brought by such person, or any claimant through him, to recover such land in respect of such other estate, interest, right, or possibility, unless in the meantime such land shall have been recovered by some person entitled to an estate, interest, or right, which shall have been limited or taken effect after or in defeasance of such estate or interest in possession.

21. No person claiming any land in equity shall bring any suit to recover the same but within the period during which by virtue of the provisions hereinbefore contained, he might have made an entry, or brought an action to recover the same respectively, if he had been entitled at law to such estates, interest, or right, in or to the same as he shall claim therein in equity.

22. When any land shall be vested in a trustee upon any express trust, the right of the cestuique trust, or any person claiming through him, to bring a suit against the trustee, or any person claiming through him, to recover such land, shall be deemed to have first accrued according to the meaning of this Chapter, at and not before the time at which such land shall have been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser, and any person claiming through him.

23. In every case of a concealed fraud, the right of any person to bring a suit in equity for the recovery of any land of which he, or any person through whom he claims, may have been deprived by such fraud, shall be deemed to have first accrued at and not before the time at which such fraud shall, or with reasonable diligence might have been first known or discovered; but nothing in this Section shall enable any owner of lands to have a suit in equity for the recovery thereof, or for setting aside any conveyance of such lands, on account of fraud against any bona fide purchaser for valuable consideration, who has not assisted in the commission of such fraud, and who at the time that he made the purchase did not know, and had no reason to believe that any such fraud had been committed.

24. Nothing in this Chapter shall be deemed to interfere with any rule or jurisdiction of a Court of Equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring a suit may not be barred by virtue of this Chapter.

25. When a mortgagee shall have obtained the possession or receipt of the profits of any land comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit to redeem the mortgage but within twenty years next after the time at which the mortgagee obtained such possession.

or receipt, unless in the meantime an acknowledgment in writing, signed by the mortgagee, or the person claiming through him, of the title of the mortgagor, or of his right of redemption, shall have been given to him, his agent, or some person claiming his estate, and in such case no such suit shall be brought but within twenty years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one was given; and when there shall be more than one mortgagor, or more than one person claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons; but where there shall be more than one mortgagee, or more than one person claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money or land by, from, or under him or them, and any person or persons entitled to any estate or interest, to take effect after or in defeasance of his or their estate or interest, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person entitled to any other undivided or divided part of the money or land; and where such of the mortgagees or persons aforesaid as shall have given such acknowledgment, shall be entitled to a divided part of the land comprised in the mortgage, or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land, on payment, with interest, of the part of the mortgage money which shall bear the same proportion to the whole of the mortgage money as the value of such divided part of the land shall bear to the value of the whole land comprised in the mortgage.

26. At the determination of the period limited by this Chapter to any person for making an entry or bringing an action or suit, the right and title of such person to the land for the recovery whereof such entry, action, or suit respectively might have been made or brought within such period, shall be extinguished.

27. The receipt of the rent payable by any tenant from year to year, or other lessee, shall, as against such lessee, or any person claiming under him (but subject to the lease), be deemed to be the receipt of the profits of the land for the purposes of this Chapter.

28. No writ of right, or writ in nature of a writ of right, and no other action, real or mixed, except a writ of right of dower, or writ of dower *unde nihil habet*, or an ejectment, shall be hereafter brought.

29. No action, or suit, or other proceedings, shall be brought to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise charged upon or payable out of any land, at law or in equity, or any legacy, but within twenty years next after a present right to receive the same shall have accrued to some person capable of giving a discharge for or release of the same, unless in the meantime some part of the principal money, or some interest thereon, shall have been paid, or some acknowledgment of the right thereto shall have been given in writing, signed by the person by whom the same shall be payable, or his agent, to the person entitled thereto, or his agent; and in such case no such action, or suit, or proceeding, shall be brought but within twenty years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one were given.

30. It shall and may be lawful for any person entitled to, or claiming under any mortgage of land, to make an entry or bring an action at law, or suit in equity, to recover such land at any time within twenty years next after the last payment of any part of the principal money or interest secured by such mortgage, such payment being made within twenty years after the right of entry first accrued, although more than twenty years may have elapsed since the time at which the right to make such entry or bring such action or suit in equity shall have first accrued, anything in this Chapter to the contrary notwithstanding; this Section shall not affect the rights of litigants in suits now pending.

31. No arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action or suit for a longer period than six years next before the commencement of such action or suit.

CHAPTER 140.

OF THE LIMITATION OF PERSONAL ACTIONS.

Section.

1. Limitation of actions upon debts of record, or by specialty.
2. Actions for penalties.
3. Actions for assault, &c.
4. Other actions.
5. Acknowledgment or promise, when a bar.
6. Acknowledgment, &c., of one joint debtor, effect of.
7. One only may be recovered against.
8. Plea in abatement, effect of on joint suit.

Section.

9. Set off, when barred.
10. When defendant may bring action for set off.
11. Actions against minors, &c., limitation of.
12. Actions after reversal of judgment, when may be brought
13. Action abating for any cause, proceedings.
14. Time elapsing after death of party, remedy when pursued.
15. Bank notes not affected.

1. No action or *scire facias* upon any judgment, recognizance, bond, or other specialty, shall be brought but within twenty years after the cause of action.

2. No action for any sum of money given to the party aggrieved by any Act or Statute, or for any penalty, shall be brought but within two years after the cause of action, unless the time is otherwise limited by the Statute.

3. No action for assault, battery, wounding, imprisonment, or for words, shall be commenced but within two years after the cause of action.

4. No other action shall be commenced but within six years after the cause of action.

5. No acknowledgment or promise shall be evidence of a new or continuing contract, or liability whereby to take any case out of the operation of the provisions of this Chapter, or to deprive any party of the benefit thereof, unless such acknowledgment or promise be in writing, signed by the party chargeable thereby, but a payment made on account of any such debt shall have the effect of such acknowledgment or promise.

6. No person jointly contracting, or liable, or his representatives, shall be answerable for or by reason of any payment, acknowledgment, or promise of his co-contractor, or debtor, or his representatives.

7. In actions against persons jointly contracting, or liable, or their representatives, the plaintiff may recover against one of the parties, though barred by the provisions of this Chapter as to the other.

8. If in any action on a contract the defendant plead in abatement that any other person ought to have been jointly

sued, and issue be joined, and it shall appear that the action was, by reason of the provisions of this Chapter, barred against the person so named in the plea, the issue shall be found for the plaintiff.

9. This Chapter shall apply to any demand alleged by way of set off on the part of any defendant.

10. If the defendant is deprived of the benefit of his set off by the nonsuit, or any act of the plaintiff, he may bring a new action therefor within one year thereafter.

11. Actions by or against minors, married women, persons insane, or out of the Province, may be commenced within the like period after the removal of the disability, as is allowed for bringing the action in ordinary cases.

12. If in any action judgment be given for the plaintiff, and the same be reversed by error, or if judgment be arrested after verdict, the plaintiff may commence a new action within one year after such judgment reversed or arrested.

13. If a writ abate for any matter of form, the plaintiff, or his representatives in case of his death, when the action survives, may bring a new action within one year after the abatement.

14. If any person bring or be liable to any action, and shall die before the time limited therefor expires, or within thirty days thereafter, and the cause of action survives, the action may be commenced by or against his representative within six months thereafter.

15. The provisions of this Chapter shall not apply to any action brought for the recovery of a note issued by any incorporated Bank.

CHAPTER 141.

OF JOINT DEBTORS.

Section 1.—Proceedings against joint debtors, &c.

1. Proceedings may be taken against joint debtors; and if any or either of them be taken or served therewith, the plaintiff shall recover his judgment against the debtor so taken or served, and the other joint debtors, the same as if they all had been taken or served, but no execution shall be executed

against the body or goods, the sole property of any person not taken or served, before *scire facias* brought against him on such judgment, with liberty to give in evidence any matter which would have been a defence for him in the original action.

CHAPTER 142.

OF SET OFF.

Section.

1. Mutual debts may be set off.

Section.

2. Mode of proceeding.

1. Mutual debts between parties, or between testator or intestate and either party, may be set off against each other in any Court, though in law they may be of a different nature.

2. The plaintiff shall recover no more in such action than shall be justly due, after one debt is set off against the other ; if he shall become nonsuit, or the jury do not assess damages over and above the debt or sum for which the notice of set off has been given, judgment shall be rendered for the defendant for costs ; and if the jury shall find the plaintiff overpaid, the defendant shall recover judgment, and have execution for the sum so found, with costs.

PART FOURTH.

OF THE CRIMINAL LAW, AND THE ADMINISTRATION OF CRIMINAL JUSTICE.

TITLE XXXIX.

OF THE CRIMINAL LAW.

CHAPTER 143.

OF OFFENCES RELATING TO THE ARMY.

Section.

1. Soliciting soldiers, &c., to desert.

Section.

2. Receiving clothing, &c., of soldiers, &c.

1. Whoever shall directly or indirectly solicit or procure any Soldier, Sailor, or Marine, to desert the Queen's service, or shall assist any deserter from such service, knowing him to

be such, in deserting or concealing himself, shall be guilty of a misdemeanor, and shall be imprisoned for a term not exceeding six months, or pay a fine of twenty pounds.

2. Whoever shall receive from any Soldier, Sailor, Marine, or Deserter, any accoutrement or clothing belonging to the Queen, or shall receive from any such person any provisions, unless by consent of the Officer commanding the Regiment or Detachment to which such person shall belong, shall be guilty of a misdemeanor, and shall pay a fine of five pounds, or be imprisoned for a term not exceeding six months.

CHAPTER 144.

OF OFFENCES AGAINST RELIGION.

Section.

1. Disturbing public worship.

Section.

2. Desecrating the Lord's Day.

1. Whoever shall disturb any meeting of persons assembled for religious worship, or any person officiating at such meeting, or any of the persons then assembled, shall forfeit the sum of forty shillings for each offence.

2. Whoever shall openly desecrate the Lord's Day, commonly called Sunday, by shooting, gaming, sporting, playing, hunting, drinking, or frequenting tippling houses, or by servile labour (works of mercy or necessity excepted), shall for every offence pay a fine not exceeding forty shillings, or be committed to gaol for a term not exceeding four days.

CHAPTER 145.

OF OFFENCES AGAINST PUBLIC MORALS AND DECENCY.

Section.

1. Drunkenness.
2. Incest.
3. Adultery.

Section.

4. Disorderly house.
5. Lotteries, and exception.

1. Whoever shall be convicted of drunkenness either upon view, or on evidence before a Justice, shall for each offence pay a fine of not less than five nor more than twenty shillings, and in default thereof shall be imprisoned for a period of not less than twelve hours, nor more than four days, at the discretion of such Justice.

2. Whoever shall commit incest, shall be guilty of a misdemeanor, and be imprisoned for a term not exceeding fourteen years.

3. Whoever shall commit adultery, shall be guilty of a misdemeanor, and shall pay a fine not exceeding one hundred pounds, or be imprisoned for a term not exceeding two years.

4. Whoever shall keep a common gaming, bawdy, or other disorderly house, room, or place, shall be guilty of a misdemeanor, and be imprisoned for a term not exceeding two years; and whoever shall appear to act or behave as the master or mistress, or as having the care or management of any such house, room, or place, or the owner or landlord letting the same for any such purpose, shall be deemed the keeper thereof, and be liable to the above punishment.

5. Whoever shall set up, or publish the setting up of any lottery, or induce any person to purchase tickets for, or shall play at, or purchase or possess any interest in such lottery, shall be guilty of a misdemeanor, and shall be fined or imprisoned, at the discretion of the Court. Nothing herein shall apply to the Fishery Draft in the City of Saint John, under the direction of the Common Council of said City.

CHAPTER 146.

OF OFFENCES AGAINST THE LAW OF MARRIAGE.

Section.

1. Bigamy.
2. Unauthorized persons celebrating or assisting at a marriage.
3. Authorized persons celebrating without bans or licence.

Section.

4. Penalty for not signing certificate, &c.
5. Penalty for receiving fee for marriage licence, when.

1. Whoever, after having been married, shall marry any other person during the life time of the former husband or wife, whether the second marriage shall have taken place in this Province, or elsewhere, shall be guilty of felony, and be imprisoned for any term not exceeding two years, or fined, at the discretion of the Court; but nothing herein shall apply to any second marriage contracted out of this Province by any person not being a British subject, or to any person marrying a second time whose husband or wife shall have been absent from this Province for the space of seven consecutive years;

and shall not have been known by such person to be living within that time, or to any person who shall have been divorced from the bond of the first marriage, or whose former marriage shall have been declared void by any competent Court.

2. Whoever, not being duly authorized, shall presume to solemnize, or assist in the solemnization of any marriage between any persons whomsoever, shall be guilty of a misdemeanor, and shall be imprisoned for any term not exceeding twelve months, and pay a fine not exceeding one hundred pounds.

3. Whoever, being duly authorized, shall solemnize marriage between any persons whomsoever, before proclamation of banns according to law, unless a licence for such marriage be first duly obtained, or shall knowingly solemnize marriage where either party is under the age of twenty one years, without the consent of father or guardian, shall be guilty of a misdemeanor, and shall pay a fine of twenty pounds. The prosecution for such penalty to be commenced within twelve months from the committing of the offence.

4. Whoever shall refuse to make or sign the Certificate of Marriage required by law, or shall neglect to transmit the same when signed to the Clerk of the Peace, or to register the same when received, shall for each offence forfeit the sum of twenty pounds.

5. No person shall receive a fee for any Marriage Licence until the delivery of the licence to the party applying for the same, under the penalty of twenty pounds.

CHAPTER 147.

OF OFFENCES AGAINST THE PUBLIC PEACE.

Section.

1. Riotously pulling down buildings, &c.
2. Unlawful assemblies continuing together after proclamation.
3. Manner of making, and form of Proclamation.
4. Preventing proclamation.

Section.

5. Continuing assembled after preventing proclamation.
6. Unlawful assembly.
7. Riot.
8. Riot.
9. Affray.
10. Carrying dangerous weapons, &c.

1. Any person who shall unlawfully and maliciously pull down or destroy, or begin to pull down or destroy any building, bridge, or other erection or machinery therein, shall be

guilty of felony, and shall be imprisoned for a term not exceeding fourteen years.

2. If twelve or more persons shall riotously and tumultuously assemble together to the disturbance of the public peace, and being required by any Sheriff, Coroner, Deputy Sheriff, or Justice, by proclamation made in due form of law, to disperse themselves and peaceably depart to their habitations or lawful business, shall not so disperse and depart, but shall remain together for the space of fifteen minutes after such proclamation, they and each of them shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding four years.

3. The persons authorized as in the next preceding Section to make proclamation, shall, among the rioters, or as near as may be, with a loud voice command, or cause to be commanded, silence, and then proclaim as follows, or to this effect : —“ Our Sovereign Lady the Queen commands all persons “ here assembled immediately to disperse to their habitations “ or lawful business, or they will incur the penalty of the law “ against unlawful assemblies.—God save the Queen.”

4. Whoever shall, directly or indirectly, oppose, obstruct, or injure any person lawfully making, or endeavouring to make such proclamation, shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding two yeats.

5. Twelve or more persons being so unlawfully assembled, and not dispersing forthwith after proclamation so obstructed, with knowledge thereof, shall be guilty of a misdemeanor, and each of them be imprisoned for a term not exceeding two years.

6. Three or more persons having assembled, and continuing together, with intent illegally to execute any common purpose with force and violence, or in a manner calculated to create terror and alarm amongst Her Majesty’s subjects, shall be guilty of an unlawful assembly, and each of them shall be imprisoned for a term not exceeding two years.

7. Three or more persons having assembled, who shall continue together with intent illegally to execute any common purpose with force and violence, or in any manner calculated to create terror and alarm amongst Her Majesty’s subjects, and who shall endeavour to execute such purpose, shall, although such purpose was not executed, be guilty of a rout, and be imprisoned for any term not exceeding three years.

8. Three or more persons having assembled, who shall continue together with intent illegally to execute any common purpose with force and violence, and who shall wholly or in part execute such purpose in a manner calculated to create terror and alarm amongst Her Majesty's subjects, shall be guilty of a riot, and be imprisoned for any term not exceeding four years.

9. Two or more persons who shall fight together in a public place, in a manner calculated to create terror and alarm amongst Her Majesty's subjects, shall be guilty of an affray, and each of them be imprisoned for any term not exceeding two years.

10. Two or more persons who shall openly carry any dangerous or unusual weapons in any public place, in a manner calculated to create terror and alarm amongst Her Majesty's subjects, shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding one year.

CHAPTER 148.

OF OFFENCES AGAINST THE ADMINISTRATION OF JUSTICE.

Section.

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| 1. Taking reward for aiding to remove stolen goods, &c. | 5. Rescue and prison breach. |
| 2. Shooting, stabbing, &c., to resist lawful apprehension. | 6. False certificate of order, &c. |
| 3. Assault to resist same. | 7. Stealing, &c., documents connected with the administration of justice. |
| 4. Assaulting revenue or other officer. | 8. Perjury, and subornation of perjury. |

1. Whoever shall corruptly take reward for aiding a person to recover any money, goods, chattels, or other valuable security obtained by means of a felony or misdemeanor, shall be guilty of a felony, and be imprisoned for any term not exceeding three years, unless he cause the principal offender to be apprehended and brought to trial.

2. Whoever with intent to resist the lawful apprehension or detainer of himself, or any other person, shall discharge or attempt to discharge any kind of loaded arms at, or shall stab, cut, or wound any person, shall be guilty of felony, and be imprisoned for any term not exceeding seven years.

3. Whoever with intent to resist the lawful apprehension or detainer of himself, or of any other person, shall assault any person, shall be guilty of a misdemeanor, and be imprisoned

for any term not exceeding two years, or fined at the discretion of the Court.

4. Whoever shall assault or obstruct any peace officer, marshal, officer of justice, or of the revenue, in the execution of his duty, or person acting in aid of any such officer, shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding two years, or fined at the discretion of the Court.

5. Whoever shall escape from, or rescue any person in lawful custody, or make or cause a breach of prison, shall be guilty of a misdemeanor, and in either case shall be imprisoned for any term not exceeding two years.

6. The Clerk or deputy Clerk of any Court of Justice, or any officer having the custody of the records of any such Court, who shall certify any order, or any copy or certificate of any indictment, conviction, or record, or other proceedings of any trial, or of any party, or of the substance thereof, as true, knowing the same to be false, or shall utter any such order, copy, or certificate, with a false or forged signature thereto, knowing the same to be false or forged, shall be guilty of felony, and be imprisoned for any term not exceeding three years.

7. Whoever shall steal or fraudulently take any document or instrument connected with the administration of justice, from its place of deposit, or from any person having the lawful custody thereof, or maliciously obliterate, injure, or destroy the same, shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding two years, or fined at the discretion of the Court; but such punishment shall not affect the civil remedy of the parties.

8. Perjury or subornation of perjury shall be a misdemeanor, and any person guilty thereof shall be imprisoned for any term not exceeding two years.

CHAPTER 149.

OF HOMICIDE AND OTHER OFFENCES AGAINST THE PERSON.

Section.

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| 1. Murder. | Section. |
| 2. Petit treason. | 7. Rape. |
| 3. Manslaughter. | 8. Carnal knowledge of girl under ten
years. |
| 4. Excusable homicide. | 9. Carnal knowledge of girl above ten and
under twelve. |
| 5. Intent to kill by setting fire. | 10. Buggery. |
| 6. Preventing, &c., any person on board
ship in distress from saving his life. | 11. Definition of "carnal knowledge." |

Section.	Section.
12. Abduction of any girl or boy.	17. Attempting to kill, no bodily harm being caused.
13. Attempt, &c., to procure miscarriage.	18. Attempting to cause grievous bodily harm.
14. Secreting, &c., dead body of any child to conceal its birth.	19. Assault, &c., with felonious intent.
15. Causing grievous bodily harm.	20. Conviction of assault only on trial for felony.
16. Causing bodily harm with intent to kill.	

1. Every person who shall be convicted of murder, or of being an accessory before the fact to murder, shall suffer death as a felon, and of being an accessory after the fact to murder, shall be imprisoned for any term not exceeding four years, and fined at the discretion of the Court.

2. Any offence which before the ninth and tenth years of the Reign of King George the Fourth, would have amounted to petit treason, shall be deemed to be murder only, and any person guilty thereof, whether as principal or accessory, shall be punished as a principal or accessory in murder.

3. Whoever shall be convicted of manslaughter shall be imprisoned for any term not exceeding fourteen years.

4. Whoever shall kill another by misfortune, or in his own defence, or in any other manner not felonious, shall incur no punishment or forfeiture.

5. Whoever shall maliciously set fire to, cast away, or in any wise destroy any ship or vessel, with intent to kill any person, or whereby the life of any person shall be put in danger, shall be guilty of felony, and suffer death.

6. Whoever shall maliciously prevent or impede any person being on board of, or having quitted any ship or vessel which shall be in distress, wrecked, stranded, or cast on shore, in his endeavour to save his own life, or the life of another, shall be guilty of felony, and be imprisoned for any term not less than three nor more than fourteen years.

7. Whoever shall carnally know and abuse any woman against her will and by force, or whilst she is insensible, shall be guilty of rape, and shall suffer death as a felon.

8. Whoever shall carnally know and abuse any girl under the age of ten years shall be guilty of felony, and shall suffer death as a felon.

9. Whoever shall carnally know or abuse any girl of or above the age of ten and under the age of twelve years, shall be guilty of a misdemeanor, and be imprisoned at the discretion of the Court.

10. Whoever shall commit the crime of buggery either with mankind or with a brute animal, shall be guilty of felony, and shall suffer death as a felon.

11. Any the least degree of penetration, although there be no emission of seed, shall constitute carnal knowledge as regards the crimes mentioned in the four last preceding Sections.

12. Whoever shall take or cause to be taken any unmarried girl under the age of sixteen years, or any boy under the age of fourteen years, whether consenting or otherwise, out of the possession or against the will of the father, mother, or other person having the lawful charge of such girl or boy, shall be guilty of a misdemeanour, and shall be punished by fine or imprisonment, or both, for such sum and time as the Court shall adjudge.

13. Whoever shall maliciously procure or attempt to procure a miscarriage, shall be guilty of felony, and be imprisoned for any term not exceeding fourteen years.

14. Whoever shall endeavour to secrete the dead body of any child, with intent to conceal the birth thereof, whether such child died before, at, or after its birth, shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding two years.

15. Whoever shall maliciously cause to any other person any grievous bodily harm, shall be guilty of felony, and be imprisoned for any term not exceeding fourteen years.

16. Whoever shall administer to, or cause to be taken by, any other person, any poison or other destructive thing, or by any means cause bodily harm to any person, with intent in any of such cases to kill any person, shall be guilty of felony, and be imprisoned for any term not exceeding seven years.

17. Whoever shall by any means manifesting a design to kill; other than actually administering or causing to be taken poison or other destructive thing, attempt to kill any person, although no bodily harm be caused, shall be guilty of felony, and be imprisoned for any term not exceeding seven years.

18. Whoever shall maliciously attempt to cause grievous bodily harm to any person, by any means manifesting a design so to do, shall, although no bodily harm be caused, be guilty of a misdemeanor, and be imprisoned for any term not exceeding four years.

19. Whoever shall assault any person with intent to commit a felony, shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding two years, or fined at the discretion of the Court.

20. Whoever on a trial for murder, or manslaughter, or any other felony, which shall include an assault, shall be convicted of an assault only, shall be imprisoned for any term not exceeding three years, or fined at the discretion of the Court.

CHAPTER 150.

OF OFFENCES AGAINST THE HABITATION.

Section.

1. Arson.
2. Destroying, &c., dwelling house by explosion.
3. Burglary.
4. Entering dwelling house with felonious intent, and breaking out at night.

Section.

5. Burglarious entry, &c., with the intent to kill; assault, &c.
6. Breaking into other buildings than dwelling houses in the night.
7. Breaking into any house, &c., in the day.
8. Party indicted for burglary may be convicted of misdemeanor.

1. Whoever shall maliciously set fire to any dwelling house, any person being therein, shall be guilty of felony, and suffer death.

2. Whoever shall maliciously by the explosion of gunpowder, or other explosive substance, destroy, throw down, or damage the whole or any part of a dwelling house, any person being therein, shall be guilty of felony, and be imprisoned for any term not exceeding fourteen years nor less than three years.

3. Whoever shall commit the crime of burglary shall be guilty of felony, and be imprisoned for any term not exceeding fourteen years.

4. Whoever shall enter the dwelling house of another, with intent to commit felony, or being in such dwelling house shall commit any felony, and shall in either case break out of said house in the night time, shall be guilty of burglary, and be punished as prescribed in the last preceding Section; but no building, although within the same curtilage with such dwelling house, and occupied therewith, shall be deemed to be part of such dwelling house for the purpose of burglary, unless there be a communication between such building and dwelling house, either immediately, or by means of a covered and enclosed passage.

5. Whoever shall burglariously break and enter into any dwelling house, or any inner part thereof, and with intent to kill, shall assault any person being therein, or shall cause any bodily harm, or do any violence to such person, shall be guilty of felony, and shall suffer death.

6. Whoever with intent to commit felony shall, in the night time, break and enter any building, shall be guilty of felony, and be imprisoned for any term not exceeding seven years.

7. Whoever with intent to commit felony shall, in the day time, break and enter any building, shall be guilty of a misdemeanor, and be imprisoned for a term not exceeding three years, or fined at the discretion of the Court, or both.

8. Whoever shall be indicted for any burglary, or burglarious offence, where the breaking and entering shall be proved at the trial to have been made in the day time, and no breaking out shall appear to have been made in the night time, or where it shall be left doubtful whether such breaking and entering, or breaking out, took place in the day time or night time, may be acquitted of the felony, and convicted of a misdemeanor, and punished as in the last preceding Section.

CHAPTER 151.

OF FRAUDULENT APPROPRIATIONS.

Section.

1. Robbery.
2. Robbery, with grievous bodily harm.
3. Causing bodily harm with offensive instruments, &c.
4. Assaulting with intent to rob.
5. Demanding property with menaces, &c.
6. Plundering, &c., vessel wrecked.
7. Extorting gain by accusing of abominable crime, &c.
8. Obtaining possession of property by accusing of treason, infamous crime, &c.
9. Definition of "infamous crime."
10. Attempting to commit felony by accusing, &c.

Section.

11. Definition of "sending a letter."
12. Larceny.
13. Stealing by clerks and others.
14. Stealing, or, with intent to steal, killing cattle.
15. Stealing, &c., valuable security.
16. Stealing, &c.; testamentary instrument.
17. Stealing muniment of title.
18. Civil remedy, when not to be affected.
19. Embezzlement.
20. Obtaining anything by false pretences.
21. Definition of "false pretence."
22. Receiving stolen goods, &c.

1. Whoever shall rob any person shall be guilty of felony, and be imprisoned for a term not exceeding fourteen nor less than three years.

2. Whoever shall rob any person, and at the time of, or immediately before or after such robbery, shall cause any grievous bodily harm to any person, shall be guilty of felony, and shall suffer death.

3. Whoever, being armed with an offensive instrument, shall by himself or with another, rob, or assault with intent to rob, any person, and at the time of, or immediately before or after such robbery, cause bodily harm, or do violence to the person of another, shall be guilty of felony, and be imprisoned for any term not exceeding fourteen years.

4. Whoever, with intent to rob, shall assault any person, shall be guilty of felony, and imprisoned for any term not exceeding three years.

5. Whoever, with menaces or by force, shall demand any property of any person, with intent to steal the same, shall be guilty of felony, and be imprisoned for a term not exceeding three years.

6. Whoever shall plunder or steal part of any ship or vessel wrecked, stranded, or cast on shore, or any property or materials belonging to such ship or vessel, shall be guilty of felony, and be imprisoned for a term not exceeding fourteen nor less than three years.

7. Whoever shall accuse or threaten to accuse any person of the crime of buggery, or with any assault with intent to commit, or with any attempt or endeavour to commit such crime, or of making any offer, promise, solicitation, or threat to any person, to induce such person to commit or permit such crime, and shall by such accusation or threat extort or gain from such person any property, shall be guilty of felony, and be imprisoned for any term not exceeding fourteen years.

8. Whoever, by accusing or threatening to accuse, or by knowingly sending, delivering, or uttering any letter or writing, accusing, or threatening to accuse another of any treason or felony, or of any assault with intent to commit a rape, or of any attempt or endeavour to commit a rape, or of any infamous crime, shall obtain the possession of any property, shall be guilty of felony, and be imprisoned for any term not exceeding seven years.

9. The term "infamous crime" shall include the crime of buggery, and any assault with intent to commit, and any attempt or endeavour to commit, and any solicitation, persuasion, or threat made to any person, to induce such person to commit or permit such crime.

10. Whoever shall, by any of the means specified in Section

8 of this Chapter, attempt to commit any felony, or shall knowingly send, deliver, or utter any letter or writing, demanding of any person, with menaces and without any reasonable or probable cause, any thing being the subject of theft, shall be guilty of felony, and be imprisoned for any term not exceeding seven years.

11. Every species of parting with or disposing of any such letter or writing mentioned in any of the preceding Sections of this Chapter, to the end that the same may come into the possession of the person for whom it is intended, shall be deemed a sending of such letter within the meaning of those Sections.

12. Whoever shall be indicted for any larceny shall, on conviction thereof, be imprisoned for a term not exceeding seven years.

13. Any clerk or servant who shall steal any thing belonging to, or in possession, or under the power of his master, shall be guilty of felony, and be imprisoned for a term not exceeding seven years.

14. Whoever shall steal, or kill any cattle with intent to steal the same, or any part thereof, shall be guilty of felony, and be imprisoned for a term not exceeding seven years.

15. Whoever shall steal, or for any fraudulent purpose destroy, conceal, or make away with any valuable security, shall be guilty of felony, and be imprisoned for a term not exceeding seven years nor less than one year.

16. Whoever shall steal, or for any fraudulent purpose destroy or conceal any testamentary instrument, shall be guilty of a misdemeanor, and punished by fine or imprisonment, or both, at the discretion of the Court.

17. Whoever shall steal any muniment of title shall be guilty of a misdemeanor, and punished by fine or imprisonment, or both, at the discretion of the Court.

18. The four last preceding Sections shall not affect any civil remedy the parties may have.

19. A clerk, or servant, or person employed in such capacity, who shall embezzle any property received or taken into his possession by virtue of such employment, shall be guilty of felony, and be imprisoned for a term not exceeding seven years.

20. Whoever, with intent to defraud another, shall by any

false pretence obtain any thing the subject of theft, whereby the owner or any other person is induced to part therewith, shall be guilty of a misdemeanor, and be imprisoned for a term not exceeding two years.

21. Any false representation of a state of things past, present, or future, and any fraud or unlawful device, or ill practice in playing, betting, or wagering at or upon any game, sport, pastime, or exercise, or on those who play thereat, shall be deemed a false pretence within the meaning of the last preceding Section ; and it shall not entitle any party charged with the offence therein specified, to an acquittal on the ground that the property in question was so obtained, as to amount in law to larceny ; but the offender shall not be afterwards prosecuted for larceny therefor.

22. Whoever shall knowingly receive or have in his possession any thing stolen, obtained by false pretence, or embezzled, shall, if the stealing, obtaining, or embezzling amount to a felony, be guilty of a felony, and imprisoned for a term not exceeding seven years ; but if the same be a misdemeanor, he shall be guilty of a misdemeanor, and be imprisoned for a term not exceeding two years.

CHAPTER 152.

OF FORGERY AND OFFENCES RELATING TO THE COIN.

Section.

1. Forgery, &c.
2. Forging documentary titles.

Section.

3. Making or uttering counterfeit coin.

1. Whoever shall forge, or utter, knowing the same to be forged, any writing, or clandestinely and without the consent of the owner, make any endorsement on any written instrument, with intent to defraud any person, shall be guilty of felony, and be imprisoned for any term not exceeding seven years.

2. Whoever with intent to defraud another, shall forge any muniment of title or testamentary instrument, shall be guilty of felony, and be imprisoned for a term not exceeding seven years.

3. Whoever shall make, or knowingly utter any counterfeit coin, or impair any legal coin, or make any pieces of metal

or metal composition, whether counterfeit or not, with the intent of passing the same as legal coin, or money of any kind, whether as the current coin or money of this Province, or any other place, or knowing the same to be false or counterfeit, utter any such, as the current coin or money as aforesaid, shall be guilty of a misdemeanor, and be imprisoned for a term not exceeding two years.

CHAPTER 153.

OF MALICIOUS INJURIES TO PROPERTY.

Section.

1. Setting fire and attempting to set fire to buildings.
2. Endangering vessels by false lights.
3. Setting fire to or injuring vessels.
4. Destroying vessels in distress.
5. Setting fire to coal and other mines.
6. Attempting to damage buildings by explosion.
7. Destroying sea banks, telegraphs, bridges, &c.
8. Flooding mines.
9. Setting fire to certain crops.
10. Destroying ornamental trees.
11. Cutting grain; robbing orchards.
12. Damaging public fixtures.
13. Ditto wörke of art.
14. Killing and injuring cattle.
15. Cruelly beating and abusing cattle.
16. Leaving poison in any streets.

Section.

1. Whoever shall maliciously set fire to any building or erection shall be guilty of felony, and be imprisoned for a term not exceeding fourteen years; and for the attempt to set fire as aforesaid he shall be guilty of a misdemeanor, and imprisoned for a term not exceeding seven years; and the jury on the trial of any person for the felony, may find him guilty of such misdemeanor only, and he shall be punished accordingly.

2. Whoever shall maliciously exhibit any false light or signal with intent to endanger any ship or vessel, or shall maliciously do any thing tending to the immediate loss or destruction of any ship or vessel in distress, shall be guilty of felony, and shall suffer death.

3. Whoever shall maliciously set fire to, injure, cast away, or destroy, or maliciously do any thing tending to the loss or destruction of any ship or vessel, whether the same be complete, or in an unfinished state, shall be guilty of felony, and be imprisoned for a term not exceeding fourteen years.

4. Whoever shall maliciously destroy, or attempt to destroy, any part of a ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, shall

be guilty of felony, and be imprisoned for any term not exceeding seven years.

5. Whoever shall maliciously set fire to any mine of coal, or other combustible substance, or to any stack of grain, hay, or straw, or pile of coal, charcoal, cord wood, or any other combustible substance, shall be guilty of felony, and be imprisoned for any term not exceeding seven years.

6. Whoever shall place or throw in, into, upon, against, or near any building or vessel, any gunpowder, or other explosive substance, with intent to damage any building, erection, vessel, machinery, fixtures, or chattels personal, shall, whether or not any explosion takes place, or damage be effected, be guilty of felony, and be imprisoned for a term not exceeding three years.

7. Whoever shall maliciously break or cut down any sea bank, sea wall, dyke, or aboideau, whereby any lands shall be overflowed or damaged, or shall be in danger of being so, or shall maliciously cut, injure, or destroy the posts, wires, or other apparatus or property connected with or belonging to any line of electric telegraph now or hereafter to be established, or the ways, banks, iron, stone, brick, or wood work of any way, or any part of the travelling apparatus, or buildings, erections, and other property belonging to or connected with any rail road now or hereafter laid down, or any mill dam, or public bridge, shall be guilty of felony, and be imprisoned for any term not exceeding seven years.

8. Whoever shall convey or cause to be conveyed into any mine, or subterraneous passage connecting therewith, with intent to destroy or damage such mine, or to hinder the working thereof, any water, earth, rubbish, or substance, or shall with the like intent maliciously pull down, or obstruct any air way, water way, drain, adit, pit, level, or shaft, shall be guilty of felony, and be imprisoned for any term not exceeding seven years; but nothing herein shall extend to any damage not maliciously committed under ground by the owner of an adjoining mine in working the same, or by any person duly employed in such working.

9. Whoever shall maliciously set fire to any crop of corn, grain, or hay, whether standing or cut down, shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding three years.

10. Whoever shall maliciously damage or destroy the whole or any part of any tree, shrub, or plant growing in any park, pleasure ground, garden, orchard, field, pasture, square, avenue, or street, shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding one year, or fined a sum not exceeding ten pounds.

11. Whoever shall unlawfully cut and take away any growing corn or grain, or shall rob any orchard, garden, or other plantation of any fruit, vegetables, or other things therein growing, or wilfully injure a part of any hedge, fence, or other enclosure, or shall remove from the premises or injure any vehicle, sleigh, or article belonging to any person, and on his premises, shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding six months, or fined in a sum not exceeding five pounds.

12. Whoever shall maliciously damage, rip, cut, break, or destroy any glass, woodwork, lead, iron, copper, brass, or other metal, or any utensil or fixture whether made of metal or other material, fixed in any square, street, or other place, dedicated to public use or ornament, shall be guilty of a misdemeanor, and shall be imprisoned for a term not exceeding one year, and be fined in a sum not exceeding ten pounds.

13. Whoever shall maliciously damage or destroy any thing kept for the purpose of art, science, or literature, or as an object of curiosity, in any repository, which repository is at any time open for the admission of the public, or of any considerable number of persons to view the same, either with or without pay, shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding six months, and fined in a sum not exceeding one hundred pounds.

14. Whoever shall maliciously kill or cause harm to any cattle, with intent to kill or render the same useless to the owner, either permanently or for a time, shall be guilty of a misdemeanor, and be imprisoned for any term not exceeding six months, or be fined in a sum not exceeding ten pounds.

15. Whoever shall wantonly and cruelly beat, abuse, or illtreat any cattle, shall be guilty of a misdemeanor, and be imprisoned or fined at the discretion of the Court.

16. Whoever shall maliciously leave poison on any public street, highway, or property, shall be guilty of a misdemeanor,

and on conviction shall pay a fine of ten pounds, one half to the prosecutor, the other to the Overseers of Poor for the Parish where the offence is committed.

CHAPTER 154.

OF OTHER FELONIES.

Section 1.—Of principals in second degree, and accessories.

1. In the case of any felony punishable under this Title, every principal in the second degree, and every accessory before the fact, shall be punishable with death or otherwise in the same manner as the principal in the first degree; and every accessory after the fact to any felony punishable under this Title (except only a receiver of stolen property), shall be liable to be imprisoned for any term not exceeding two years.

CHAPTER 155.

OF THE DEFINITION OF TERMS AND EXPLANATIONS.

Section.

1. Terms, how understood.
2. Officer.
3. Woman.
4. Grievous bodily harm.
5. Writing.
6. Testamentary instrument.
7. Moveable thing.

Section.

8. Valuable security.
9. M^tniment of title.
10. Cattle. Cow.
11. Cattle.
12. Night time. Day time.
13. Imprisonment. Imprisoned.
14. Criminal possession.

1. The terms following, occurring throughout this Title, shall be understood as hereinafter defined, unless it be otherwise specially provided, or there be something in the subject or context repugnant thereto.

2. The term "officer" shall signify any person vested with authority and legally bound to execute any public duties.

3. The term "woman" shall signify any female human being of any age.

4. The term "grievous bodily harm" shall signify any bodily harm from which danger to life may reasonably be apprehended; whereby any limb, member, organ, or sense, or mental faculty is permanently disabled, weakened, or impaired; the mutilation of any part of the body whereby permanent disfigurement is caused; the fracture or dislocation of any bone; or any bodily harm whereby the person to whom

it is caused is, during twenty days at the least, in bodily pain, diseased, or unable to follow his ordinary calling or pursuits.

5. The term "writing" shall include any material on which any words or figures at length or abridged are written, printed, or otherwise expressed, or any map or plan is described.

6. The term "testamentary instrument" shall include any will, codicil, or other testamentary writing or appointment, as well during the life of the testator whose testamentary disposition it purports to be, as after his death, whether the same shall relate to real or personal estate, or both.

7. The term "moveable thing," as used in defining theft, and other offences concerning property, shall include money, valuable securities, muniments of title, written instruments of justice, testamentary instruments, and all domestic animals; also the bodies and all parts of the bodies of dead animals, and all other chattels personal.

8. The term "valuable security" shall include any unsatisfied debenture, bond, bill, note, warrant, order, or other security for money, or for the payment of money, of this or any other country; any instrument for the delivery or transfer of any chattel personal; any tally, order, or other security entitling or evidencing title to any share or interest in any public stock or fund of any state or country, or in any fund of any body corporate, company, or society, or to any deposit in any Savings Bank; and any other writing which secures or evidences title to or interest in any chattel personal; or any release, receipt, discharge, or other instrument evidencing payment of money, or the delivery of any chattel personal; and every such valuable security shall, where value is material, be deemed to be of value equal to that of such unsatisfied money, chattel personal, share, interest, or deposit, for the securing or payment of which, or delivery, or transfer, or sale of which, or for the entitling or evidencing title to which, such valuable security shall be applicable; or to that of such money or chattel personal, the payment or delivery of which shall be evidenced by such valuable security.

9. The term "muniment of title" shall include any writing as before defined in Section 5 of this Chapter, which is or shall be evidence of the title or of any part of the title to any

real estate, or to any interest therein ; and any memorial or any entry of the acknowledgment of any memorial already or hereafter to be registered, of any such writing, or of any judgment or recognizance of or concerning any real estate, or any interest therein, under the provisions of any law of this Province.

10. The term "cattle" shall include any horse, mule, ass, sheep, pig, or goat, whatsoever be the age or sex of the animal ; and also every bull, cow, calf, or ox ; the term "cow" shall be deemed to include a heifer.

11. When the term "cattle" is used, or any particular animal is mentioned by name, the term shall, unless it be otherwise provided, signify living cattle, or a living animal so named.

12. When the term "night time" is used, that time shall commence at nine of the clock in the evening of each day, and conclude at six of the clock in the morning of the next succeeding day ; and when the term "day time" is used, that time shall commence at six of the clock in the morning, and conclude at nine of the clock in the evening of each day.

13. The terms "imprisonment" and "imprisoned" in this Title shall respectively mean and include imprisonment with or without hard labour, either in the Provincial Penitentiary, or in the common gaol of the County where the offender may be tried, in the discretion of the Court before which the trial may be, unless it be otherwise specially provided either in the law or sentence, or there be something in the subject or context repugnant to such construction.

14. When the having any matter or thing in the custody or possession of any person, is in any Section of this Title expressed to be an offence, if any person shall have any such matter or thing in his personal custody or possession, or shall knowingly or wilfully have any such matter or thing in any dwelling house or other building, lodging, apartment, field, or other place open or enclosed, whether belonging to or occupied by himself or not, and whether such matter or thing shall be so had for his own use or benefit, or for that of another, any such person shall be deemed to have such matter or thing in his custody or possession, within the meaning of such Section ; and where, of two or more persons, any one or more shall,

with the knowledge and consent of the rest, have any such matter or thing in his or their custody or possession, such matter or thing shall be deemed to be in the custody or possession of all such persons.

TITLE XL.

OF THE ADMINISTRATION OF CRIMINAL JUSTICE.

CHAPTER 156.

OF PROCEEDINGS BEFORE INDICTMENT.

Section.

1. Proceedings on complaint.
2. Warrant, when issuable.
3. Oath.
4. Summons, how served.
5. Form of warrant.
6. Witnesses, attendance of.
7. Offender, examination of.
8. Justice to read examination, &c.
9. Spectators, exclusion of.
10. Justice may bind over witnesses.
11. Duty of Justice after examination.
12. When Justice may discharge accused or not.

Section.

13. Justice, his powers and duties in case of felony.
14. Judge of Supreme Court, his powers.
15. Justices powers in misdemeanor.
16. Depositions, copies of.
17. Clerk of the Peace, his duty in case of felony, &c.
18. When a Judge may issue warrant.
19. When a Justice may, for stolen goods.
20. Persons suspected of keeping bawdy houses.
21. Defects in summons, &c.
22. Transmission of proceedings.

1. Whenever a Complaint (A) shall be made before a Justice that any person has committed, or is suspected to have committed, any indictable offence, the said Justice shall issue his Warrant (B), or he may issue his Summons (C); if after being served with the summons such person shall fail to appear as required, the Justice may issue his Warrant (D); but he may issue the first warrant at any time.

2. Any such warrant or search warrant may be issued on Sunday.

3. Before issuing a warrant the complaint shall be in writing on oath, but a summons may be issued on a verbal complaint without oath.

4. The summons shall be served personally; if the party cannot conveniently be found, it shall be left with some person at his last or most usual place of abode.

5. Every warrant issued shall be under the hand of a Justice, directed to any constable of the County where the offence was committed, and shall state briefly the offence, and name or describe the offender, and the constable may arrest him thereunder in any part of the Province.

6. If it appear on oath to a Justice that any person would be a material witness, and will not attend before him, the Justice shall issue his Summons (E). If the party he summoned and do not appear, the Justice may issue his Warrant (F); or if the Justice shall in the first instance be satisfied on the oath of any credible person that it is probable such witness will not attend, he may issue his Warrant (G). If the witness appear and refuses to be sworn and examined without good excuse, the Justice may issue his Commitment (H).

7. When the offender is brought before the Justice, he shall take the statement on Oath (I) of all the witnesses produced, in presence of the offender, who shall be at liberty to examine any witness produced, which statement shall be read to and signed by the witness, and by the Justice. If upon trial it shall appear on oath that any witness whose deposition may have been so taken is dead, or so ill that he cannot travel, or is absent from the Province, it may be read on the trial without further proof.

8. After all the witnesses for the prosecution shall have been examined, the Justice shall read the depositions to the accused, and ask him if he has any thing to say, stating that he is not obliged to say any thing unless he wishes, but whatever he may say will be taken down, and may be used as evidence against him; that he has nothing to hope from any promise or favour, and nothing to fear from any threat that may have been holden out to him to induce him to make admissions. His answer (J) shall then be taken down in writing, and attached to and kept with the depositions, and may be given in evidence against him on his trial; but the prosecutor may give in evidence any admission or other statement of such person, made at any time, which by law would be admissible evidence.

9. The Justice may order that no person shall be present during such examination.

10. The Justice taking the examination shall bind by recognizance (K) all the witnesses examined, (except married women and infants, who shall find security for their appearance if the Justice see fit), which examinations and recognizances shall by him be forthwith transmitted to the Clerk of the Crown on the Circuits, except in the County of York, when they shall be sent to the Clerk of the Crown. Should

any witness refuse to enter into recognizance, or find security in the excepted cases aforesaid, the Justice shall issue his Commitment (L); but if afterwards the accused person shall not be committed or held to bail for the offence, the same or any other Justice for the same County may issue his Order (M).

11. The Justice if necessary may issue his Warrant (N), and remand the accused for such time as he may deem reasonable, not exceeding eight clear days at any one time, to the gaol or other place of security in the County; if such remand should not exceed three days, the Justice may verbally order the constable or other person to keep the accused in custody, and to bring him at the time appointed for continuing such examination, the Justice being at liberty to order the accused to be brought before him at any time before the expiration thereof. The accused may at any time during the examination be admitted to bail upon recognizance (O), in two sufficient securities at the discretion of the Justice, and failing to appear, the Justice shall certify (P) on the recognizance such default, and transmit the same to the Clerk of the Crown to be proceeded upon, and the certificate shall be evidence of such default.

12. Should the Justice after a full hearing be of the opinion that the accused should not be put on his trial, he shall discharge him as to that enquiry; but should he be of a contrary opinion, he shall then commit him by Warrant (Q), or admit him to bail as hereinafter provided. The Justice may take evidence on behalf of the accused, and transmit it with the other documents to the Clerk of the Crown on the Circuits, and the witnesses giving such evidence shall be bound by recognizance, if desired by the accused.

13. If on the charge of felony the evidence does not warrant the Justice to dismiss the complaint, the accused shall be committed to gaol, unless the Justice may be authorized to admit to bail.

14. A Judge of the Supreme Court may admit to bail any person charged with felony, by ordering the evidence taken before the Justice to be forthwith transmitted to him without certiorari. The order for bail shall specify the number of sureties and the amount; under which order the Bail (R) may be taken by any Justice of the County where the accused is in

custody ; and such Justice shall require good and sufficient bail in the amount specified, and certify the same under his hand, and transmit the recognizance with the order forthwith to the Clerk of the Crown on the Circuits.

15. The Justice before whom any person shall be charged with a misdemeanor shall, after taking the examination, if there be sufficient evidence to put him on his trial, instead of committing him to gaol admit him to bail upon his procuring sufficient sureties for his appearance at the trial. If the accused be committed to gaol, the Justice shall at any time previous to the first sitting of the Court for trial admit him to bail.

16. The accused at any time before he is tried shall, on demand, and on payment of six pence per folio therefor, receive copies of the depositions.

17. The Clerk of the Peace in every County shall advise and assist any Justice of the County when required by him, in any proceeding had before him in regard to any person charged with or suspected of felony or misdemeanor, and shall attend any examination before such Justice, if the same take place within forty five miles from the Court House of the County, for which he shall be paid a reasonable compensation out of the funds of the County, by order of the Justices in Sessions.

18. When it shall be made to appear to a Judge of the Supreme Court, by affidavit or certificate, that an information has been filed, or indictment found in the said Court, or any Court of Oyer and Terminer, for any offence not being treason or felony, the Judge may issue his Warrant (S.)

19. When it shall appear to any Justice by affidavit, that there is reasonable cause to suspect that any person has in his possession, or on his premises, any property in respect to which any indictable offence has been committed, the Justice may grant a Warrant (T) to search for the same as in the case of stolen goods. And any person found committing any felonious offence with respect to property, may forthwith be apprehended without warrant by any peace officer, or the owner thereof, his agent, servant, or any person authorized by him, and be forthwith taken before a Justice to be dealt with according to law ; and any person to whom any property shall be offered to be sold, pawned, or delivered, if he have reasonable

cause to suspect that any such offence has been committed in respect to such property, shall, if in his power, forthwith arrest the offender and convey him to a Justice to be dealt with according to law.

20. Upon the complaint on oath before a Justice, of any two inhabitants being householders of any City, Town, or Parish, of any person keeping a bawdy, gaming, or disorderly house, in any such place, the Justice shall issue his warrant to bring such person before him, and shall bind him over with two sufficient sureties to appear before the next Sessions, or Court of Oyer and Terminer for the County where the offence is charged, to answer to such bill of indictment as may be found against him, and in the mean time for his good behaviour. If the accused cannot find bail, the Justice shall commit him, and shall take the examination in the ordinary manner, and the Justice shall before he issues the warrant of commitment require the complainants to enter into recognizance in the penal sum of twenty pounds each, to give or produce evidence against such person before the Grand Jury, and on his trial.

21. Any defect in a complaint, summons, or warrant, in form or substance, and any variance between any such instrument and the evidence given to sustain the charge therein, shall not affect the validity of the proceeding ; but where the same may prejudice any party in his defence to such charge, the Justice hearing the case may grant further time upon such terms as he may direct.

22. All examinations, inquisitions, and recognizances, taken by any Justice or Coroner, shall immediately thereafter be transmitted to the Clerk of the Crown on the Circuits.

CHAPTER 157.

OF RECOGNIZANCE IN CRIMINAL CASES.

Section.

1. Order of render, how and by whom made.

2. Powers of sureties.

3. How person rendered again admitted to bail.

Section.

4. Sureties, how discharged.

5. When sureties may render the person into Court.

6. Arraignment and conviction, effect of or recognizance.

1. The sureties of any person charged with a felony or a misdemeanor, may obtain from a Judge of the Supreme Court,

upon affidavit shewing the grounds therefor, with a certified copy of the recognizance, an order in writing under his hand, to render such person to the common gaol of the County where the offence is to be tried.

2. The sureties under such order may arrest such person, and deliver him, with the order, to the gaoler named therein, who shall receive and imprison him in the said gaol, and shall be charged with the keeping of such person until he be discharged by due course of law.

3. The party rendered may apply to a Judge of the Supreme Court to be again admitted to bail, who may on examination allow or refuse the same, and make such order as to the number of the sureties, and the amount of recognizance, as he may deem meet, which order shall be dealt with the same as the first order for bail, and so on as often as the case may require.

4. On due proof of such render, and a certificate of the Sheriff, proved by the affidavit of a subscribing witness, that such person has been so rendered, a Judge of the Supreme Court shall order an entry of such render to be made on the recognizance by the officer in charge thereof, which shall vacate the recognizance, or may be pleaded or alleged in discharge thereof.

5. The sureties may bring the person charged as aforesaid into the Court at which he is bound to appear, during the sitting thereof, and then by leave of the Court render him in discharge of such recognizance at any time before trial, and such person shall be committed to gaol, there to remain until discharged by due course of law, but such Court may admit such person to bail for his appearance at any time they may deem meet.

6. The arraignment or conviction of any person charged and bound as aforesaid, shall not discharge the recognizance, but the same shall be effectual for his appearance for trial or sentence, as the case may be; the Court may commit such person to gaol upon his arraignment or trial, or may require new or additional sureties for his appearance for trial or sentence, as the case may be, notwithstanding such recognizance; and when duly committed, it shall be a discharge of the sureties.

CHAPTER 158.

OF PROCEEDINGS ON INDICTMENT.

Section.

1. Petit treason deemed murder, when.
2. What to state in indictment.
3. Incest or adultery, how dealt with.
4. Accessories, how triable.
5. Death of principal felon, its effect.
6. Bigamy and other crimes, where triable.
7. Principal and receiver, how tried, and when.
8. Offences partly committed abroad, where triable.
9. On boundaries of Counties.
10. On a voyage or journey.
11. Forgery, and obtaining goods by false pretences, evidence in.
12. Property, when in several persons, how tried.
13. When used for public purposes.

Section.

14. When in charge of a public officer.
15. Omission of certain statements immaterial.
16. Objections, how taken.
17. Indictment for stealing written instruments.
18. Monuments of title.
19. What proof where one act of stealing, &c.
20. Embezzlement, facts how described.
21. Principals and receivers of stolen goods, where dealt with.
22. Receivers of stolen property, guilty of what.
23. Lotteries, how dealt with.
24. Description of Bank and other notes in indictment.
25. Perjury, how stated.

1. Any offence amounting to petit treason shall, as respects principal or accessories, be deemed murder, and be dealt with as such.

2. In an indictment for murder it shall be sufficient to charge that the offender did feloniously, wilfully, and of his malice aforethought, kill and murder the deceased; and in an indictment for manslaughter, that he did feloniously kill and slay the deceased; without setting forth the manner or means by which the death was caused.

3. Every crime of felony, incest, or adultery, shall be dealt with in the Courts of Oyer and Terminer or General Gaol Delivery, except where power may be specially given by law to any other Court to try and determine the same.

4. Any accessory before or after the fact to any felony may be dealt with as such accessory with the principal, or may be indicted and convicted of a substantive felony before or after the conviction of the principal, and whether the principal be amenable or not to justice; and such accessory may be dealt with by the Court having jurisdiction over the offence of the principal, whether the crime of being accessory was committed on the high seas, or within or without any part of the Queen's dominions; and if the principal felony shall be committed in one County, and the offence of being accessory in another, the last offence may be dealt with in either County; but no person shall be indicted or tried a second time either as such accessory or as for a substantive felony.

5. If the principal felon after conviction shall die, be pardoned, or otherwise delivered before attainer, the accessory may be proceeded against, or if he be already convicted, may be punished.

6. In every case of bigamy, forgery, or uttering a forged writing, the accessory before or after the fact may be dealt with in the County where the offender may be in custody.

7. Felonious stealing, and receiving stolen property, may be included in one indictment, and the jury may find a verdict of guilty either for stealing or receiving ; and if more than one person be charged in such indictment the jury may find all or either of them guilty of felony or receiving stolen property, or one or more of them guilty of stealing, and the others of receiving.

8. When any person shall be feloniously hurt or injured at any place out of this Province, and shall die in the Province of such hurt or injury, or when any person shall steal any property out of this Province and shall bring the same within the Province, any such offence, whether committed by any person as principal or accessory before or after the fact, may be dealt with in the County in which such death may happen, or such property shall be brought.

9. When any indictable offence shall be committed on the boundary of two or more Counties, or within one mile thereof, or at such a place as to render it uncertain in which County the offence was committed, or be commenced in one County and completed in another, the offender may be dealt with in either of the said Counties.

10. When any indictable offence shall be committed on any person during a journey or voyage, or in respect of any property in any vehicle or vessel employed in any journey or voyage, such offence may be dealt with in any County through any part of which such vehicle or vessel may have passed on such journey or voyage.

11. In an indictment against any person for forgery, or uttering any forged writing, or making any clandestine endorsement thereon, no copy or fac simile of the writing need be made, but it shall be sufficient to describe the same in substance ; and in such indictment, or in an indictment for obtaining or attempting to obtain any property by any false pretence,

it shall be sufficient to allege and prove that the defendant did the act with intent to defraud, without naming any particular person.

12. Where more persons than one shall be the owners of property, real or personal, in respect whereof any indictable offence has been committed, the indictment may name one of the owners, stating the property to be his and that of another; and if it be necessary to mention partners, parceners, joint tenants, or tenants in common, joint stock companies, or trustees, such description shall suffice; and where property shall be stolen from any vessel, or from the custody of any person acting as agent for or servant of the owner of such property, the same may be described in the indictment as the property of the master or person having the custody of the property at the time of its being stolen.

13. In an indictment for any offence committed in, upon, or with respect to any building or erection belonging to or used in whole or in part by any County, or on or with respect to any goods or chattels provided for or at the expense of any County, or be used on or in any such building or erection, it shall be sufficient to state the property, real or personal, to belong to the inhabitants of such County, without specifying the names of the inhabitants.

14. In any indictment for any offence committed on or with respect to any property, real or personal, under the management or in the occupation or charge of any Public, County, or Parish Officer, or Commissioner, it shall be sufficient to state any such property to belong to such Officer or Commissioner, without specifying his name.

15. No indictment for any offence shall be held insufficient either on demurrer, in arrest of judgment, on error, or otherwise, for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," or of the words "against the form of the Statute or Act of Assembly;" nor for the insertion of the words "against the form of the Statute or Act of Assembly," instead of the "Statutes or Acts of Assembly," or vice versa; nor for that any person mentioned in the indictment is designated by a name of office or other descriptive appellation,

instead of his proper name ; nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence ; nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, nor on a day that never happened ; nor for want of a proper or perfect venue, or any venue in the body of the indictment, except where local description may be necessary ; nor for want of a proper or formal conclusion ; nor for want of, or imperfection in the addition of any defendant ; nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil, in any case where the value or price, or the amount of damage, injury, or spoil, is not of the essence of the offence ; nor for stating the offence in the words of the Act, whether they be disjunctively stated, and appear to include more than one offence or otherwise ; nor for want of a similiter, or for an insufficient suggestion ; nor by reason of the Jury process having been awarded to a wrong officer, or any misnomer or misdescription of the officer returning the process, or of any of the jurors ; nor because any juror has served who was not returned by the proper officer.

16. Every objection to any indictment for any formal defect not enumerated in the last preceding Section, apparent on the face of the indictment, shall be taken by demurrer or motion to quash the indictment only before the jury shall be sworn, and the Court may order the indictment to be forthwith amended, and the trial to proceed.

17. In any indictment for stealing, destroying, or concealing any testamentary instrument, it shall not be necessary to allege the property stolen, or destroyed, or concealed, to be the property of any person.

18. In any indictment for stealing any muniment of title, it shall be sufficient to allege the thing stolen to be evidence of the title, or part of the title of the person, or of some one of the persons having a present interest, legal or equitable, in the real estate to which the same relates, mentioning such estate or some part thereof.

19. If but one act of stealing, receiving stolen goods knowing them to be stolen, or embezzlement, at one time be charged in

any indictment, the offender may upon proof of more than one and not more than three such acts committed within six months from the first to the last, against the same person, be convicted thereof, as if charged with each specially in one or separate counts.

20. In an indictment for embezzlement (except for a chattel) it shall be sufficient to describe the embezzlement to be of money, without particularizing the coin or valuable security; and such description shall be good, if the offender shall be proved to have embezzled any amount, even though such coin or valuable security may have been delivered to him, in order that some part of the value thereof shall be returned to the person delivering the same, and though such part shall have been returned.

21. Every receiver of stolen goods, every accessory before or after the fact to any felony, and every person aiding to commit any misdemeanor, may be dealt with in any County in which he shall have any such property in his possession, or have become such accessory, or so aiding, or in which the principal may by law be tried, and in any Court which has power to try the principal.

22. Any person receiving any property, the stealing or converting whereof shall be an indictable misdemeanor, shall be guilty of a misdemeanor, and may be tried and punished whether the principal be convicted, or amenable to justice or not.

23. All lotteries which by law are common and public nuisances, may be dealt with in any Court of Oyer and Terminer or of General Sessions in this Province.

24. In an indictment in which it may be necessary to make an averment as to any money, bank note, promissory note, bill of exchange, bond, or other instrument for the payment of money, it shall be sufficient to describe such money or bank note simply as money, without specifying any particular coin or bank note, and such instrument as a note, bill of exchange, or bond, as the case may be, without further description.

25. In every indictment for perjury or subornation of perjury, it shall be sufficient to state the substance of the offence charged, and by what Court, or before whom the oath was made, without setting forth any part of any proceeding in law or equity, or of the authority of the Court, or the person before whom such offence was committed.

CHAPTER 159.

OF TRIAL.

Section.	Section.
1. Defence by Counsel.	17. Obtaining property by false pretences, how punishable.
2. Accused entitled to copy of indictment, when.	18. Party charged with felony guilty of misdemeanor, and vice versa, how punished.
3. Same as to depositions.	19. Insane persons, how dealt with.
4. Dilatory plea, effect of.	20. How removed.
5. Plea of autrefois acquit, &c.	21. Owner of stolen property, his duty.
6. Attainder, how pleaded.	22. Judge may reserve questions.
7. Traverse over, when and how allowed.	23. Statement of the case by him.
8. Persons standing mute, effect of.	24. Court, how to act.
9. Plea not guilty, effect of.	25. Powers of Court of Sessions.
10. Peremptory challenges.	26. Larceny, when bail allowed in.
11. Inquiry as to value of property.	27. Common assaults, trial and incidents.
12. Variances.	28. Persons guilty, discharge of.
13 Competency of owner of forged writing to give evidence.	29. Where aggravated.
14. Who can be witnesses.	30. Justices' proceedings.
15. Concealment of birth of child.	31. Prosecution, when commenced.
16. On trial for felony jury may convict, for what.	

1. Every person tried for a felony shall be admitted to make full answer thereto by Counsel, or by Attorney in Courts where Attorneys practice as Counsel, as well as in all cases of summary proceedings before Justices.

2. Every person indicted for any crime or offence shall, before being arraigned on the indictment, be entitled to a copy thereof, on paying the Clerk six pence per folio for the same.

3. The accused person shall not be entitled to a copy of the depositions, if the same are not demanded before the opening of the Assizes or Sessions, unless the Court shall be of opinion the same can be made without delay to the trial; but the Court may, if it see fit, postpone the trial on account of such copy of the depositions not having been previously had by the person charged; every person at the time of his trial shall be allowed, without fee or reward, to inspect all depositions, or copies thereof, taken against him and returned into Court.

4. No indictment shall be abated by reason of any plea of misnomer or other dilatory plea; but the Court shall, if affidavit be made of the truth of the plea, cause the indictment to be forthwith amended, and the party shall plead thereto.

5. In any plea of autrefois convict, or acquit, it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted of the offence charged in the indictment.

6. No plea of attainder shall be pleaded in bar of any indictment, unless the attainder be for the offence charged in the indictment.

7. No person indicted for a misdemeanor shall traverse over the indictment at any Assizes or Sessions; but the Court may, on good cause shewn by affidavit, adjourn the trial of the same to the next or any subsequent Court.

8. If any person arraigned on any indictment shall stand mute of malice, or shall not answer directly, the Court shall direct the proper officer to enter the plea of "not guilty" on his behalf.

9. Any person pleading "not guilty" to any indictment shall, without form, be deemed to have put himself upon his country for trial.

10. No person arraigned for treason or capital felony shall peremptorily challenge above the number of twelve, or for any other felony above the number of six, jurymen; and any peremptory challenge of the panel, beyond the number so allowed, shall be entirely void.

11. The jury empanelled to try any person indicted for treason or felony shall not be charged to enquire concerning his lands or goods, or whether or not he fled for such crime.

12. When any variance shall appear between any statement in the indictment and the evidence offered in proof thereof, whether it be in the name of any person killed or injured, or intended to be killed or injured, or of any person, or in respect of any property the subject of any offence, or of any other description of property, or of any other name, person, matter, or thing, the Court before which the trial of such indictment shall be, may order the same to be amended by the proper officer. If the Court think it necessary for the ends of justice to postpone the trial to some other day during the same, or next sitting of the Court, the offender may be remanded to gaol, or discharged with or without bail, and the same or a new jury be directed to try the case, or such other terms prescribed as the Court may direct.

13. Upon the trial of any indictment for forging any writing, or uttering the same knowing it to be forged, no person shall be an incompetent witness for the prosecution, by reason of any interest or supposed interest he may have in respect of the thing forged.

14. No conviction of any felony or misdemeanor, where the offender shall have endured the punishment adjudged, except

for perjury or subornation thereof, shall render the person so convicted an incompetent witness in any Court, civil or criminal.

15. If on the trial of any woman for the murder of her child, she shall be acquitted thereof, the jury may, if the evidence warrant, find her guilty of concealing the birth of such child, and thereupon the Court may pass sentence for such concealment.

16. On the trial of any person for any felony, the jury may acquit of the felony, and if the evidence warrant, find a verdict of guilty for a misdemeanor, and the Court may proceed to punish the offender as if he had been convicted therefor.

17. If on the trial of any person for a misdemeanor, the offence proved shall amount in law to a felony, the Court, if competent to deal with the felony, may either proceed on the same indictment as for the misdemeanor involved therein, which shall be a discharge of the felony, or may order the jury to be discharged, and the offender to be indicted for such felony, on such terms with regard to his custody as the Court shall think fit.

18. If on the trial of any person indicted for obtaining any property by false pretence, the offence proved shall amount in law to larceny, the offender may be convicted of and punished for larceny; and no person tried for such misdemeanor shall be afterwards prosecuted for larceny upon the same facts.

19. If on the trial of a person for any offence it shall be proved that at the time of committing the offence he was insane, and he be on that account acquitted, the jury shall find that fact, and also that he was acquitted by them on that account only; and in the event of such finding, or if upon such trial any such person shall then appear to be insane, and the jury so find, or if any person arraigned for any offence, or brought before the Court to be discharged in any case for want of prosecution, be or appear to be insane, and a jury which the Court may cause to be empanelled for the purpose of trying the question of his sanity, shall find him to be insane, such Court shall direct the finding to be recorded, and order such person to be kept in close custody until the pleasure of the Governor be known, and the Governor, to whom the verdict or proceedings shall be forthwith reported by the Clerk, shall make an order for his safe keeping.

20. The Governor, upon receiving the certificate of two Justices, and two medical men, that any person imprisoned for an offence is insane, may make an order for his removal to a place of safe keeping, there to remain until two medical men certify his sanity to the Governor, who shall order his removal back to imprisonment, if he be then liable thereto.

21. If the owner, or the representative of the owner of any property stolen, or fraudulently taken, obtained, or converted by any person, or received by him, knowing it to have been stolen, shall prosecute such person to conviction, the same shall be restored to such owner, or representative, by the summary order of the Court; and should it satisfactorily appear that any such property, though the offender be not convicted, actually belonged to the prosecutor, or the person represented by him, the Court may order the same to be restored to such prosecutor, unless, before such order made, it shall appear, in the case of any valuable security, that the same has been bona fide paid or discharged by the person liable to the payment thereof; or if it be a negotiable instrument, that it has been taken by some person by a bona fide transfer or delivery for a valuable consideration, without notice or reasonable cause to suspect the same to have been unlawfully obtained; in any such case, no order of restitution shall be made.

22. When any person shall have been convicted of any offence before any Assizes, the Judge presiding at such Court may reserve any question of law which may have arisen during the trial for the consideration of the Supreme Court, and shall have authority to respite execution of the judgment, or postpone judgment, until the said Supreme Court shall decide such question; in either case the said Judge shall either commit the offender to gaol, or admit him to bail, with two good sureties for such sum as he shall think fit, conditioned to appear at a time certain to receive judgment, or render himself into custody.

23. The said Judge shall, in a case to be signed by him, state the question of law reserved, with the special circumstances, and transmit the same to the Supreme Court, which shall hear and finally determine such question, and reverse, affirm, or amend any judgment given, or avoid such judgment, and order entry thereof to be made on the record, or arrest the

judgment, or order judgment to be given thereon at some other Assize, or make such other order as justice may require; such judgment and order to be certified by the Chief Justice or presiding Judge to the Clerk of the Crown on the Circuits, who shall enter the same on the record, and a certificate (U) of such entry, made to suit the circumstances of each case, shall be sent by the said Clerk to the Sheriff or gaoler having custody of the offender, which certificate shall be a sufficient warrant to such Sheriff or gaoler, and all other persons, either to execute such judgment according as it shall be certified to have been affirmed or amended, or, if it shall have been reversed, avoided, or arrested, to discharge such person from custody, who shall forthwith be discharged, and the next Court of Assize shall vacate the recognizances of bail (if any); but should the said Court of Assize be directed to give judgment, it shall proceed to do so at its next Session.

24. The Supreme Court may order the case or certificate to be sent back for amendment, and the same shall be amended, and then judgment delivered thereupon.

25. The Court of Sessions shall have power to try all persons charged with larceny, accessories thereto, and all receivers of stolen goods, when the value of the property does not exceed five pounds; and in difficult cases any such Court may either before or after plea pleaded, hand over the indictment to the next Assizes held in the County, to be there proceeded with as if originally found in that Court, and the Sessions shall in such case bind over by recognizance the offender to appear and take his trial, and the witnesses to give evidence at such Assizes.

26. Any person charged with larceny, or of receiving stolen goods knowing them to be stolen, may, when the value of the property so taken or received shall not exceed forty shillings, be admitted to bail by any Justice before whom the charge may be made; but should such person be committed to gaol for want of bail, and there remain for forty eight hours, he may be tried before three Justices of the County where the offence was committed, and if convicted may be imprisoned in the common gaol or Provincial Penitentiary for a term not exceeding six months.

27. All cases of common assault and battery may be dealt

with by any two Justices of the County wherein the offence may have been committed, and on conviction (V), the offender shall be fined in a sum not exceeding, with costs, five pounds; the fine to be applied to the support of the poor, and for that purpose paid over by the Justices to the Overseers of the Poor; but this shall not prevent any inhabitant of such County from being a competent witness to prove the offence. If the fine and costs be not paid, the Justices shall commit the offender to gaol for any term not exceeding one month, unless the same be sooner paid. If the Justices deem the offence not proved, or the assault and battery justified, or so trifling as not to require punishment, and so dismiss the case, they shall give the defendant a certificate thereof.

28. If any person charged as in the last preceding Section, shall obtain the certificate therein mentioned, or on conviction of the offence shall pay the fine and costs imposed on him, or for non-payment thereof suffer such imprisonment as shall be awarded, he shall be released from all other proceedings, civil or criminal, for the same cause.

29. Should the Justices find that the assault and battery was accompanied with an attempt to commit a felony, or be of opinion from other circumstances that the offender ought to be indicted, they shall abstain from adjudication, and proceed thereon as upon an examination; nor shall a case of assault and battery be dealt with by any Justice in which any question shall arise touching the title to or interest in land, or touching any execution, or under the process of any Court of Justice.

30. Any Justice, on due information, may issue a summons to any person charged as in Section 27, to appear before any two Justices at a certain time and place, and upon proof of the service thereof upon such person, the Justices, if he do not appear thereto, may either proceed to hear and determine the case ex parte, or issue their warrant against him, or the Justice may issue the warrant in the first instance.

31. The prosecution for any offence which may be dealt with as in Section 27 of this Chapter, shall be commenced within one month after such offence is committed.

CHAPTER 160.

OF ERROR, PUNISHMENT, AND EXPENSES.

Section.

1. Of error, power of the Court.
- 2 Pillory abolished.
- 3 Benefit of Clergy abolished.
- 4 Felony, when not punishable by death.
- 5 Pardon grantable upon terms.
- 6 Imprisonment may be ordered, when.
- 7 Punishment for escape from prison.
- 8 Who authorized to make order respecting labour of prisoners, and appoint overseers.

Section.

- 9 Proceeds of work, how applied.
- 10 Powers of Justices at Sessions.
- 11 Expense of conveying prisoners provided for.
- 12 Expenses of prosecution and witnesses, how paid.
- 13 Effect of Forms.

Schedule.

1. When a writ of error shall be brought in any criminal case, and the Supreme Court reverse the judgment, the said Court may either pronounce the proper judgment, or remit the record to the Court below for sentence.

2. The punishment of the pillory shall not be awarded by any Court.

3. Benefit of Clergy is hereby declared to be abolished.

4. No person convicted of felony shall suffer death, unless it be expressly so declared.

5. Whenever the Governor shall extend mercy to any offender sentenced to death, commuting such sentence to imprisonment with hard labour in the Provincial Penitentiary for life, or for a term of years, the Court before which the offender was convicted, or any Judge of the Supreme Court, shall allow him the benefit of a conditional pardon upon the terms of the commutation, and make an order for the immediate imprisonment of such offender accordingly; such allowance and order to be entered by the proper officer on the records of the Court before which such offender was tried, and a copy of the order, under his hand, shall have the like force as a commitment.

6. The Court may award imprisonment for any offence committed by a prisoner during his confinement, to commence at the expiration thereof.

7. Any person escaping from imprisonment shall, on being retaken, undergo in the prison he escaped from, the remainder of his term unexpired at the time of his escape, in addition to the punishment which may be awarded for such escape.

8. The Justices in Sessions, or at any Special Sessions when called for the purpose, shall make general regulations for carrying out any sentence to hard labour, and for properly

securing and governing the offenders while at work, which labour may be performed at any place within the County. The Justices shall appoint overseers to superintend the offenders; and when the labour is to be performed in the gaol, the concurrence of the Sheriff shall be had to such regulations.

9. The proceeds of the work shall be applied by the Sessions to the support and clothing of the offenders, any overplus to be paid to the County Treasurer.

10. The Justices in Sessions, or at any Special Sessions called for that purpose, may sentence to solitary confinement any person refusing to work, or guilty of misbehaviour or disorderly conduct, for a term not exceeding such offender's sentence.

11. When it becomes necessary to convey any person arrested under a criminal charge to or from the gaol of the County where he was arrested, to the gaol of the County where the offence was committed, any two Justices of the last mentioned County may order a reasonable sum for the expense of such conveyance to be paid by the Treasurer of that County out of any County moneys in his hands.

12. On the trial of any person for felony or misdemeanor, the Court may order to the prosecutor and witnesses for the prosecution such amount for travel and attendance as may be deemed sufficient to meet their reasonable expenses; and an order for the payment of such amount shall be forthwith drawn in favour of such prosecutor and witnesses respectively upon the County Treasurer by the Clerk of the Court, and the same shall be paid out of any moneys belonging to such County in the Treasurer's hands.

13. The several forms and directions in the Schedule to this Title, or to the like effect, shall have the same force as if contained in the particular Sections of this Title referring to them respectively.

SCHEDULE.

NORMS FOR INDICTABLE OFFENCES UNDER CERTAIN CHAPTERS OF THE CRIMINAL LAW,

And to be made to suit all other cases.

Offences relating to the Army.

YORK, to wit.—The Jurors for our Lady the Queen, upon their oath present, that A. B. on the day of, &c. did solicit or procure a soldier to desert the Queen's service, [or as in the words of the first and second Sections of the Chapter under the above head.]

Offences against Public Morals and Decency.

YORK, to wit.—The Jurors for our Lady the Queen, upon their oath present, that A. B. on the day of, &c. did commit incest or adultery with one C. D. (or did keep a common gaming, bawdy, or disorderly house, or rooms, generally.)

Offences against the Law of Marriage.

YORK, to wit.—The Jurors, &c. that A. B. on, &c. being married, did marry C. D. during the life time of the wife of the said A. B. (or not being duly authorized, did celebrate or assist in the celebration of a marriage between C. D. and E. F., or being duly authorized to marry, did celebrate marriage between C. D. and E. F. before proclamation of banns according to law, or without a licence for such marriage under the hand and seal of the Governor).

Offences against the Public Peace.

YORK, to wit.—The Jurors, &c. on, &c. that A. B. with two or more persons, did riotously and tumultuously assemble together to the disturbance of the public peace, and with force did demolish, pull down, or destroy, (or attempt to begin to demolish, &c.) a certain building or erection of C. D.

Offences against the administration of Justice.

YORK, to wit.—The Jurors, &c. on, &c. that A. B. did corruptly take or receive money under pretences of helping C. D. to a chattel, (or money, &c.) that is to say, a horse, (or twenty shillings, or a note, or a carriage,) which had been stolen, (*or as in the first Section of the Chapter here referred to.*)

Perjury.

YORK, to wit.—The Jurors, &c. that heretofore, to wit, at the Assizes for the County of York, held on the day of , A. D. 18 , before Esquire, one of the Justices of our Lady the Queen, a certain issue between one A. B. and C. D. in a certain plea of was tried, upon which trial E. F. appeared as witness on behalf of the said A. B. and was then and there duly sworn upon the Holy Gospels, before the said Justice, and did then and there upon his oath aforesaid, falsely, wilfully; and corruptly depose and swear in substance and to the effect following:—“That he saw the said C. D. strike the said A. B. on the day of , at Fredericton, in the said County of York”—which facts were material to the said issue; whereas in truth and in fact the said E. F. did not see the said C. D. strike the said A. B. in manner and form aforesaid, and did thereby commit wilful and corrupt perjury: (*and for subornation of perjury add the following,* and the jurors further present, that before committing the said offence by the said E. F. to wit, on the &c. G. H. unlawfully, wilfully, and corruptly, did cause and procure the said E. F. to do and commit the said offence in manner or form aforesaid.)

Homicide and Offences against the Person.

Murder.

YORK, to wit.—The Jurors for our Lady the Queen, upon their oath present, that A. B. on the day of, &c. did feloniously, wilfully, and of his malice aforesought, kill and murder one C. D. (*and in manslaughter did feloniously kill and slay one C. D.*)

Bodily Harm.

YORK, to wit.—The Jurors for our Lady the Queen, upon their oath present, that J. B. on the day of, &c. did feloniously administer to, or cause to be taken by one A. B. poison or other destructive thing, and did thereby cause bodily harm to the said A. B. with intent to kill the said A. B. (*or C. D.*)

Offences against the Habitation.

YORK, to wit.—The Jurors for our Lady the Queen, upon their oath present, that A. B. on the day of, &c. did maliciously set fire to the dwelling house of C. D., the said C. D. (*or some other person by name, or if the name be unknown, some person*) being therein.

*Fraudulent Appropriations.**Robbery.*

YORK, to wit.—The Jurors for our Lady the Queen, upon their oath present, that A. B. on the day of, &c. did rob C. D. and at the time of, or immediately before or after such robbery, did cause grievous bodily harm to the said C. D. (*or to any other person, naming him.*)

Simple Larceny.

YORK, to-wit.—The Jurors, &c. that A. B. on the, &c. did feloniously steal a gold watch, of the goods and chattels of C. D., (*or in case of stealing money, a certain sum of money, to wit, to the amount of seven pounds, the property of one C. D.*)

Embezzlement.

YORK, to wit.—The Jurors, &c. that one A. B. on, &c. being the servant or clerk, and employed in that capacity by one C. D., did then and there in virtue thereof receive a certain sum of money, to wit, to the amount of eight pounds, for and on account of the said C. D., and the said money did feloniously embezzle.

False Pretences.

YORK, to wit.—The Jurors, &c. that A. B. on, &c. unlawfully and knowingly did falsely pretend to one C. D. that he the said A. B. was sent to the said C. D. by one E. F., being a customer of the said C. D., for six yards of muslin, by means of which false pretence the said A. B. did unlawfully obtain the said muslin of the goods and chattels of the said C. D. with intent to defraud; whereas in truth the said A. B. was not sent to the said C. D. by the said E. F. for the said muslin, or any other article whatsoever.

Forgery.

YORK, to wit.—The Jurors for our Lady the Queen, upon their oath present, that A. B. on the day of, &c. did forge (or utter, knowing the same to be forged) a certain writing, (or clandestinely and without the consent of the owner, did make an endorsement on a certain written instrument) with intent to defraud.

Malicious Injuries to Property.

YORK, to wit.—The Jurors for our Lady the Queen, upon their oath present, that A. B. on the day of, &c. did maliciously set fire or attempt to set fire to a certain building or erection, that is to say, (a house, or barn, or bridge, as the case may be) the property of one C. D. . .

**FORMS UNDER TITLE OF THE ADMINISTRATION OF CRIMINAL
JUSTICE.**

(A)

Complaint.

to wit.

The complaint of C. D. of , [Yeoman] taken and sworn to, this day of , in the year of our Lord , before me, who saith that [here state offence.]

J. G. J. P.

(B)

Warrant.

To any Constable or Peace Officer of County.

Apprehend A. B. of , [Labourer, or &c.] and bring him before me, or some other Justice, to answer the complaint of C. D. of , [Yeoman] made on oath, for having on the day of , [here shortly state the offence] and to be dealt with according to law.—Dated this day of , in the year of our Lord

J. G. J. P.

(C)

Summons.

To A. B. of . [Labourer.]

You are hereby required to be and appear before me on the day of instant, (or next) at o'clock in the forenoon, at my office in , or before such Justice as may be there, to answer the complaint of C. D. of , [Yeoman] for having on the day of , [here shortly state the offence] and to be further dealt with according to law.—Dated this day of , in the year of our Lord

J. G. J. P.

(D)

Warrant when Summons is disobeyed.

To any Constable or Peace Officer of County.

Apprehend A. B. of , [Labourer] and bring him before me, or some other Justice, to answer the complaint of C. D. of , [Yeoman] made on oath, for his having on

the day of , [here state the offence shortly] and to be dealt with according to law, the said A. B. having been summoned to appear, and made default.—Dated this day of , in the year of our Lord

J. G. J. P.

(E)

Summons of a Witness.

To O. P. of , [Labourer.]

You are hereby required to be and appear before me on the day of instant, (or next) at o'clock in the noon, at my office, or before such Justice as may be there, to give evidence on a complaint made against A. B. of , [Labourer.] Fail not.—Dated the day of , in the year of our Lord

J. G. J. P.

(F)

Warrant when Witness has disobeyed Summons.

To any Constable or Peace Officer of the County of to wit.

You are hereby required to apprehend O. P. of , [Labourer] and bring him before me on the day of instant, (or next) at o'clock in the forenoon, at my office, or before such Justice as may be there, to testify what he shall know concerning a complaint against A. B., the said O. P. having been summoned to appear and made default.—Dated this day of , in the year of our Lord

J. G. J. P.

(G)

Warrant for a Witness in first instance.

To any Constable or Peace Officer of the County of to wit.

Apprehend E. F. of , [Labourer] and on the day of instant, (or next) at o'clock in the forenoon, bring him before me at my office, or before such Justice as may be there, to testify all he may know on the complaint of C. D. against A. B.—Dated this day of , in the year of our Lord

J. G. J. P.

(H)

Commitment of Witness refusing to be sworn or to give evidence,
 To any Constable or Peace Officer of the County of ,
 and to the Keeper of the Gaol of the said County.

to wit,

You, the Peace Officer, are hereby required to take O. P. a witness duly summoned, (*or as the case may be*) and appearing before me, and deliver him to the keeper of the gaol of the County of ; and you the said keeper will receive the said O. P. into the said gaol, and him safely keep for the space of seven days, for contempt in refusing to answer certain questions tendered to him in a certain cause before me, (*or to be sworn, &c. as the case may be*) unless he shall sooner consent to answer (*or be sworn*) in the premises aforesaid.—Dated this day of , in the year of Lord .

J. G. J. P.

(I)

Deposition of Witnesses.

to-wit.

The examination of C. D. of [Yeoman] taken in the presence and hearing of A. B. of [Labourer] who stands charged, for that he the said A. B. [*here describe the offence as in the Warrant*] ; the said C. D. being duly sworn, saith that, &c.

Sworn before me at , this day of , in the year of our Lord .

J. G. J. P.

[Any number of witnesses may be included in the above form as well as one.]

(J)

Statement of the accused.

A. B. stands charged before me, for that he did on the day of , in the year of our Lord , [*here describe the offence as in Warrant*] and the same being read to him, together with the depositions of the witnesses, and he having been duly cautioned, saith as follows:—

A. B.

Taken before me this day of , in the year of our Lord .

J. G. J. P.

(K)

Recognition to prosecute or give evidence.

Be it remembered that C. D. of [Merchant] came before me, the undersigned Justice, and acknowledged to owe the Queen the sum of pounds, to be made and levied on his goods and lands to the use of the Queen, if he fail in the condition underwritten.

Taken and acknowledged before me this day of , in the year of our Lord .

J. G. J. P.

Condition to prosecute.

The condition of the above is, that if the said C. D. shall appear at the next Assizes, (or at the next Sessions) to be holden for the County of ,* and there prefer a bill of indictment against A. B. of , [Labourer] for [here name the crime] and duly prosecute the same, then the said recognizance to be void, else to stand in force.

Condition to give evidence.

[Same as in last form down to the asterisk,* and then thus]—
And then give such evidence as he knoweth upon a bill of indictment to be then and there preferred against A. B. of , [Labourer] for [here name the crime] as well to the Grand as to the Petit Jury, then this recognizance to be void, else to stand in force.

(L)

Commitment of a Witness for refusing to enter into Recognizance.
To any Constable or Peace Officer of the County , and to the Keeper of the Gaol of the said County.

You the said Constable, or Peace Officer, shall take E. F. a witness examined before me, having refused to enter into the requisite recognizance, to the County gaol, and him deliver to the keeper thereof; and you the said keeper shall receive the said E. F. into your custody, and him safely keep in prison until after the trial of one A. B. for [here name the offence], unless the said E. F. shall duly enter into such recognizance.—Dated this day of , in the year of our Lord .

J. G. J. P.

(M)

Subsequent Order to discharge Witness.

To the Keeper of County Gaol.

Discharge E. F. out of your custody, as to the warrant issued by me under which he is imprisoned, he having entered into the recognizance required, (*or consented to be sworn, &c. as the case may be*).—Dated this day of , in the year of our Lord .

J. G. J. P.

(N)

Warrant remanding a Prisoner.

To any Constable or Peace Officer of the County of , and to the Keeper of the Gaol thereof.

You the said Constable, or Peace Officer, shall forthwith convey A. B. of , [*Labourer*] to gaol, and deliver him to the keeper thereof; and you the said keeper shall receive and safely keep the said A. B. until the day of next, (*or instant*) then to be brought by you before me, or some other Justice, at my office on the day of next, (*or instant*) at o'clock in the noon, to be further dealt with according to law.—Dated this day of , in the year of our Lord .

J. G. J. P.

(O)

Recognizance of Bail on an adjournment for examination.

Be it remembered that on the day of , in the year of our Lord , A. B. of , [*Labourer*] L. M. of , [*Grocer*] and N. O. of , [*Butcher*] came before me, and severally acknowledged to owe to the Queen the sum of pounds each, to be made and levied on their respective goods and lands, to the use of the Queen, if he the said A. B. fail in the condition underwritten.

Taken and acknowledged before me this day of , in the year of our Lord .

J. G. J. P.

Condition.

The condition of the above is, if the within A. B. shall appear before me or some other Justice at my office, on the day of instant, (*or next*) at o'clock in the noon, to answer the charge made against him, then the above to be void, or otherwise to be in force.

J. G. J. P.

(P)

Certificate of non-appearance to be written on the Recognizance.

I hereby certify that the said A. B. hath not appeared according to the condition of this recognizance.—Dated this day of , in the year of our Lord

J. G. J. P.

(Q)

Warrant of Commitment.

To any Constable or Peace Officer of the County of , and to the Keeper of the Gaol thereof.

You the said Constable, or Peace Officer, shall convey A. B. of , [Labourer] charged before me with [naming the crime] to the County gaol, and deliver him to the keeper thereof; and you the said keeper shall receive and safely keep him in gaol until he shall be lawfully discharged.—Dated this day of , in the year of our Lord

J. G. J. P.

(R)

Recognizance of Bail.

Be it remembered that on this day of , in the year of our Lord , A. B. of , [Labourer] C. D. of , [Farmer] and E. F. of , [Merchant] came before me, and severally acknowledged to owe to the Queen the sum of pounds each, to be made and levied on their several and respective goods and lands, to the use of the Queen, if the said A. B. fail in the condition underwritten.—Dated this day of , in the year of our Lord

J. G. J. P.

Condition in ordinary cases.

The condition of the above recognizance is, if the above A. B. charged with the offence (or crime) of [name it], do appear at the next Assizes, (or the next Sessions) for County, and then surrender himself to the keeper of the gaol, and plead to such indictment as may be proved against him on the above charge, and take his trial thereon, and not depart the Court without leave, then the above recognizance to be void, otherwise to be in force.

(S)

Form of Warrant on Indictment or Information.

To any Constable or Peace Officer of County.

Apprehend A. B. of , [Labourer] and bring him before me, or some other Judge of the Supreme Court, or any Justice, to enter into recognizance to the Queen, with two sufficient sureties, to answer to all indictments and informations for a certain offence [*as in the order of the Judge*] for the sum of [*as in the order*] and in default of giving such recognizance, commit the said to the common gaol, there to remain, unless such recognizance shall be entered into as aforesaid.— Given under my hand the day of , in the year of our Lord

R. P. J. S. C.

(T)

Search Warrant.

To any Constable or Peace Officer of the County of .

You are required to enter in the day time into the dwelling house, (store, office, &c. *as the case may be*) of C. D. and search for certain goods, to wit, [*specifying them*] charged before me to have been feloniously stolen, and to be secreted in the said [*dwelling house*], and if they or any of them are found in such, that then you bring them and the said C. D. before me, or some other Justice, to be dealt with according to law.— Dated the day of , in the year of our Lord

J. G. J. P.

(U)

Certificate of Clerk of Circuits of Reversal of Judgment or otherwise.

At the Assizes for the County of , before one of the Justices of the Supreme Court, with the Justices of the Quorum, A. B. of , [Labourer] having been found guilty of felony, and judgment thereupon been given that [*here state the sentence*] the Court of Assizes reserved a certain question of law for the consideration of the Supreme Court: This is to certify that the Supreme Court at Fredericton, in Term, in the year of the Reign of , having duly considered the said question, adjudged that the said judgment should

be reversed; you are therefore required forthwith to discharge the said A. B. from your custody.

To the Sheriff or Gaoler of , and all others whom it may concern.

(Signed) E. F., Clerk Circuits for ,
(or as the case may be.)

(V)

Conviction.

Be it remembered that on the day of , in the year of our Lord , at in the County of , A. B. is convicted before us, [name the Justices] Justices for the said County, (or City and County, as the case may be) for that he the said A. B. did [specify the offence, and the time and place when and where the same was committed, as the case may be] and we adjudge the said A. B. for his said offence, to forfeit and pay the sum of [here state the amount of the fine imposed] and also to pay the sum of for costs, and in default of immediate payment of the said sums, to be imprisoned in the for the space of , unless the said sums shall be sooner paid, (or we order that the said sums shall be paid by the said A. B. on or before the day of), and we direct that the said sum of [i. e. the amount of the fine] shall be paid to the Overseers of the Poor, to be by them applied to the support of the poor of the Parish in which the said offence was committed; and we order that the said sum of for costs, shall be paid to C. D. [the party aggrieved.]—Given under our hands the day and year first above mentioned.

J. G. J. P.
A. C. J. P.

TITLE XLI.

OF THE CONSTRUCTION, PROMULGATION AND REPEAL OF STATUTES, AND FEES.

CHAPTER 161.

OF TERMS, EXPLANATIONS, AND GENERAL PROVISIONS.

Section.

1. Authority, what to include.
2. Authority to Justice, when another may act.
3. Authority to a number, majority to act.
4. Assizes and other Courts, included under what.
5. Bonds, public, how to be taken.
6. Bye laws, &c., when to be altered, &c.
7. Conveyance, what to mean.
8. Clerks, &c., how may act.
9. Captain or master, meaning of.
10. County, what, and extent.
11. Councils, Legislative and Executive.
12. "Dealt with," what to mean.
13. Certain words, what to import.
14. "Executor," what to mean.
15. Estate, and other words, what to include.
16. Folio, what.
17. Forme, what deviations.
18. Governor, and Governor in Council, what to mean and how to act.
19. Grantor and grantee as to estates.
20. Goods, what to mean.
21. Gaol, what to mean.
22. Her Majesty, to include what.

Section.

23. Highway or road, what to signify.
24. Issue, to whom to extend.
25. Indictment, to include what.
26. Justice, to import what.
27. Lumber, to extend to other wood.
28. Month and year, what to mean.
29. Officers, tenure of office.
30. Oath, and other like terms, what to mean, and who may administer.
31. Overseers of poor, to apply to whom.
32. Penalties, recovery of.
33. Proper officer, shall mean what.
34. Person, to include what.
35. Parts and other divisions of Acts, effect of.
36. Parish, what to mean.
37. Quakers or Moravians affirming, effect of.
38. Representatives, what to mean.
39. River, meaning of.
40. Sessions, and Special Sessions, what to denote.
41. Sureties and security, what to mean.
42. Sheriff, when other officer to act.
43. Ship or vessel, what to mean.

In the construction of all Acts of Assembly, the following rules shall be observed with respect to the following terms, unless otherwise expressly provided for, or such construction would be inconsistent with the manifest intention of the Legislature, or repugnant to the context, that is to say:—

1. Authority to appoint shall include authority at any time to displace and re-appoint; and such authority shall extend as well to any case of death, as to a refusal or neglect to accept the office or to act therein.

2. Authority to a Justice of any Court to do an act, shall empower any other Justice of the same Court to act in his stead when necessary; and authority to hear shall include power from time to time to adjourn.

3. Authority to three or more persons jointly empowered to act, shall enable a majority of them to act.

4. "Assizes" shall include Courts of Oyer and Terminer, and General Gaol Delivery, and "Nisi Prius" shall mean any

Circuit Court or Sitting after Term, and "Circuit Court" shall include all the said Courts.

5. Bonds when required to be given by a public officer, shall be taken in the name of the Queen.

6. Bye Laws, Rules, Orders, and Regulations, when authorized to be made, may be altered or revoked, and others made whenever necessary, but none shall be enforced if repugnant to law.

7. "Conveyance" shall mean any instrument by which any freehold, leasehold estate, or interest in real estate, may be transferred or affected.

8. Clerks and other ministerial officers appointed by Government, when required to act, may do so by Deputies, subject to the approval of the Governor in Council, and the principal shall, in all cases, be responsible for the acts of his Deputy.

9. "Captain" or "Master" shall mean the officer or person in command, or in charge of any company, vessel, or other thing.

10. "County" shall include City and County; and wherever any County or Parish shall be bounded by any Sea, Bay, Gulf, or River, it shall extend into such Sea, Bay, Gulf, or River, to the boundary of the Province, or of the adjoining County, running out the side lines thereof in the same manner as if it were land.

11. Any matter required to be done by or with Her Majesty's Council, or any Member thereof, without specifying the Legislative Council, shall be done by or with the Executive Council, or any Member thereof, as the case may be, excepting only such matters as belong to the Legislative Council, or the Members thereof, as a Branch of the Legislature.

12. "Dealt with," when used in connection with offences, shall include all proceedings necessary for the indictment, trial, relief, and punishment of the offender.

13. Every word importing the singular number, may extend to several persons or things as well as to one person or thing; and importing the plural number, to one person or thing as well as to several persons or things; and importing the masculine gender, to females as well as males.

14. "Executor" shall include administrator.

15. "Estate" or "Property" shall mean real and personal estate; and "Real Estate," "Land," or "Lands," shall include lands, houses, tenements, and hereditaments, all right thereto and incident therein.

16. "Folio" shall mean one hundred words.

17. Forms, when prescribed, shall admit deviations not affecting the substance, or calculated to mislead.

18. "Governor" shall mean the Administrator of the Government for the time being; and "Governor in Council" the act of such Administrator, with the advice and consent of the Executive Council.

19. "Grantor" may include every person from whom, and "Grantee" every person to whom any freehold estate or interest passes by deed.

20. "Goods" shall include chattels, and every description of personal property.

21. "Gaol" shall mean the gaol of the County where the offender or person may be proceeded against.

22. "Her Majesty," or "The Queen," shall include Her Heirs and Successors.

23. "Highway" or "Road" shall signify any public highway, road, or bridge.

24. "Issue" shall mean all the lawful lineal descendants of the ancestors.

25. "Indictment" shall include information, inquisition, or presentment.

26. "Justice" shall signify any Justice of the Peace for any City, County, or City and County.

27. "Lumber" shall signify timber, masts, spars, posts, poles, knees, futtocks, deals and deal ends, logs, plank, boards, scantling, clapboards, laths, staves, and shingles, and any other article or thing cut or sawed from wood.

28. "Month" shall signify a calendar month, and a year twelve calendar months.

29. Officers appointed and to be appointed by the Governor, or Governor in Council, shall remain in office during pleasure.

30. "Oath," or "Sworn," or "Affidavit," shall include declaration or affirmation in the case of Quakers or Moravians, or wherever by law declarations or affirmations may be substituted for an oath; which oath, declaration, or affirmation,

may be administered by any Justice of the Supreme Court, the Master of the Rolls, or any Commissioner for taking affidavits in the Supreme Court, or by any Justice of any Court in which, or before a Judge of which, the same is to be used, or by any person before whom the party is by law authorized or required to make any statement on oath; a Justice of the Peace may also administer an oath, or take an affirmation or declaration in any matter over which he has jurisdiction, may swear appraisers, petitioners on petitions to any public individual or body, or inventories, or accounts rendered to the executors of an estate, or the like; any person holding an enquiry by authority of an Act of Assembly, or of the Government, may also administer an oath, declaration, or affirmation, if directed. False swearing, declaring, or affirming, or subornation thereof in any of these cases, or in any case of taking an oath in any Court of Justice, or before any officer authorized to administer an oath, shall make the party offending guilty of perjury, or of subornation thereof, as the case may be.

31. "Overseers of the Poor" shall apply to any persons having charge by law of the Poor.

32. Penalties, where no particular mode may be prescribed for the recovery thereof, may be recovered with costs in the name of any one to whom the same or a part thereof may be payable, or if not payable, to any one in the name of any person who will sue therefor, where the penalty shall not exceed ten pounds before a Justice, where twenty pounds before two Justices, under the Chapter relating to summary convictions before Justices ~~and of Sessions~~, the nature of the offence being briefly stated; and where no particular mode of applying any penalty shall be prescribed, one half thereof shall be paid to the person suing for the same, the other half to the Overseers of the Poor of the place where the offence was committed, for the use of the poor; wherever offences punishable as a misdemeanor, imprisonment, or fine, the fine may be recovered in the manner herein mentioned instead of proceeding by indictment, at the option of the prosecutor. Penalties imposed shall not relieve parties from liability for damages, and an appeal from the conviction of a Justice or Justices shall be made in the same manner as from a judgment in a civil suit as directed in Title XXXVII, Chapter 137.

33. "Proper Officer" shall mean the chief officer of the department, or of any officer in the department established at a different place from that of the principal, or of any person authorized by law to act in his stead.

34. "Person" may include any Body Corporate, Company, or Society not corporate.

35. Parts, Titles, Chapters, and Sections of this and all other Acts, shall be deemed as much a part thereof as if enacted; and capital letters and numbers inserted in the Sections shall be taken as referring to Forms in the Schedules having the like letters or numbers at the head thereof, and shall with the forms, letters, numbers, and matters connected therewith, explain the meaning and form a part of such Sections.

36. "Parish" shall include any City or Town.

37. Quakers or Moravians may affirm in all cases where by law an oath is prescribed, and the affirmation shall have the like effect, and if false, be subject to the like pains as in cases of oaths.

38. "Representatives" may mean executors and administrators.

39. "River" may mean creek, stream, or brook.

40. "Sessions" shall denote the Court of General or Quarter Sessions of the Peace for the County; and "Special Sessions" shall denote a Special Session of the Peace for the same County.

41. "Sureties" and "Security" shall in both cases mean that the same shall be sufficient.

42. "Sheriff" shall mean Coroner, or other officer, or person authorized by law to act when the Sheriff is interested, or the office may be vacant.

43. "Ship" or "Vessel" may mean any description of vessel, or boat, impelled by sails, steam, or otherwise.

CHAPTER 162.

OF THE PROMULGATION AND REPEAL OF STATUTES.

Section.

1. All Acts to be deemed public.
2. Clerk of Legislative Council to endorse date of passing.
3. Printed copies in Royal Gazette to be evidence of Acts, Rules, &c.

Section.

4. Acts may be altered, &c. the same Session.
5. No repealed Act to be revived by a subsequent repeal.

Section.	Section.
6. Nova Scotia Laws not in force in this Province.	10. Rules and regulations to continue valid after repeal.
7. An Act passed with other provisions substituted, old appointments to be good.	11. Appointments and securities to continue valid after repeal.
8. Repeal of Act not to affect any thing done under it.	12. Bonds to be good to successor in office.
9. No offence, or forfeiture, or suit pending, to be affected by repeal.	13. What may be cited as "Revised Statutes."
	14. When this Act to come into operation.
	15. Acts specially repealed.

1. All Acts shall be deemed public, and may be declared on and given in evidence without being specially pleaded.

2. The Clerk of the Legislative Council shall endorse on every Act the date of its passage, and the endorsement shall be held part of the Act, and shall be the date of its commencement, unless otherwise provided.

3. Printed copies of Acts, or of Rules and Regulations made under any of them, published in the Royal Gazette, purporting to be published by the Queen's Printer for the Province, shall be evidence of such Acts.

4. Any Act may be altered or repealed during the Session in which it may have passed.

5. No Act, or portion of an Act, heretofore or hereafter repealed, shall be revived, unless by express enactment.

6. No Law of the Nova Scotia Legislature, passed prior to the erection of this Province, shall have any force herein.

7. Where an Act has been, or shall be repealed, wholly or in part, and other provisions substituted, all persons, bodies politic, or corporate, acting under the old law, shall continue to act as if appointed under the new law, until others are appointed in their stead; and all proceedings taken under the old law, shall be taken up and continued under the new, when not inconsistent therewith; and all penalties and forfeitures may be recovered, and all proceedings had in relation to matters which have happened before the repeal, in the same manner as if the law were still in force, pursuing the new provisions as far as they can be adapted to the old law.

8. The repeal of an Act at any time shall not affect any act done, or any right or right of action existing, accruing, accrued, or established, or any proceedings commenced in a civil cause, before the time when such repeal shall take effect, but the proceedings in such case shall be conformable when necessary to the repealing Act.

9. No offence committed, and no penalty or forfeiture in-

curred, and no proceeding pending under any Act at any time repealed, shall be affected by the repeal, except that the proceedings shall be conformable, when necessary, to the repealing Act; and that where any penalty, forfeiture, or punishment shall have been mitigated by any of the provisions of the repealing Act, such provisions shall be extended and applied to any judgment to be pronounced after such repeal.

10. All rules and regulations made under any Act before the repeal thereof shall continue valid until altered or annulled.

11. All appointments, and all bonds, and securities, given by the parties appointed under any Act at any time passed and repealed, shall not be affected thereby, but remain in full force; and all offices, establishments, books, papers, and other things, made or used under any repealed Act, shall continue as before the repeal.

12. Bonds given to any person in his official character shall on his death or removal from office pass to his successor in office, who may maintain an action thereon in his own name, and transfer the same when assignable to the parties entitled.

13. This Act may be cited as "The Revised Statutes," adding when necessary the number of the Title, Chapter, and Section.

14. The provisions of this Act, unless therein otherwise expressed, shall come into operation on the first day of August in the year of our Lord one thousand eight hundred and fifty four.

15. The following Acts, passed in the several years of the respective Reigns hereinafter mentioned, shall be and are hereby declared to be repealed as soon as this Act comes into operation:

In the twenty sixth year of the Reign of King George the Third.

An Act for the registering of Letters Patent and Grants under the Great Seal of the Province of Nova Scotia, of Lands now situate within the limits of this Province.

An Act for preserving the Church of England as by law established in this Province, and for securing liberty of conscience in matters of Religion.

An Act relating to Wills, Legacies, Executors, and Administrators, and for the settlement and distribution of the Estates of Intestates.

An Act subjecting Real Estate in the Province of New Brunswick to the payment of debts, and directing the Sheriff in his proceedings thereon.

An Act for the prevention of Frauds and Perjuries.

An Act for the regulating Weights and Measures.

An Act for establishing the Rate of Interest.

An Act for preventing the multiplicity of Law Suits.

An Act for permitting persons of the profession of the people called Quakers to make Affirmation instead of an Oath.

An Act for ascertaining damages on protested Bills of Exchange.

An Act for giving the like remedy upon Promissory Notes as on Inland Bills of Exchange.

An Act to enable Creditors more easily to recover their debts from Joint Partners.

An Act to prevent Gaming.

An Act for preventing Idleness and Disorders, and for punishing Rogues, Vagabonds, and other idle and disorderly persons.

An Act to prevent the burning Woods by carelessly or wantonly firing the same.

An Act to prevent the malicious killing or maiming of Cattle.

An Act for regulating Servants.

An Act to prevent Frauds in the sale of Damaged Goods imported into this Province.

In the twenty seventh year of the Reign of King George the Third.

An Act to authorize the respective proprietors of certain Islands in the River Saint John, and other Rivers in this Province, to make rules and regulations for their better improvement and cultivation.

In the twenty ninth year of the Reign of King George the Third.

An Act for erecting a Parish in the City of Saint John, and incorporating the Rectors, Church Wardens, and Vestries of the Church of England in the several Parishes in this Province.

In the thirty first year of the Reign of King George the Third.

An Act to declare that no Law passed in the General Assembly of the Province of Nova Scotia before the erection of the Province of New Brunswick shall be of force in this Province.

In the thirty third year of the Reign of King George the Third.

An Act for apprehending Deserters from His Majesty's Service, and for punishing unlawful dealings with Soldiers or Deserters.

An Act for regulating the size and contents of Lime Hogsheads within this Province.

An Act to levy an assessment on the Proprietors of the Township of Sackville, for defraying the expenses of a Survey and Plan of said Township.

In the thirty fourth year of the Reign of King George the Third.

An Act to alter and amend an Act intituled *An Act for ascertaining damages of protested Bills of Exchange.*

In the thirty sixth year of the Reign of King George the Third.

An Act to prevent Acts of the General Assembly from taking effect from a time prior to the passing thereof.

An Act for preventing unnecessary expense and delay in the process of barring Entails, and for establishing a plain and easy form of conveying and assuring Estates Tail.

In the forty third year of the Reign of King George the Third.

An Act for transferring to and vesting in the Crown such Lands and Tenements of any person or body politic on which it may be judged suitable and necessary to erect Fortifications, or which may be wanted for other uses of war and defence, and for ascertaining the value thereof, and making compensation for the same to the former owners.

In the forty seventh year of the Reign of King George the Third.

An Act to enable the owners of stray Cattle more easily to recover the same.

An Act to make perpetual sundry Acts of the General Assembly which are near expiring.

In the fiftieth year of the Reign of King George the Third.

An Act to authorize the Sheriff, or other executive officer, serving process at the Parish of Saint Martins, to convey any prisoner there arrested to the gaol in the City of Saint John by way of the public road leading through part of King's County.

In the fifty second year of the Reign of King George the Third.

An Act to authorize the Justices of the Peace of the Counties of York and Charlotte respectively to regulate the Assize of Bread in the Towns of Fredericton and Saint Andrews.

An Act more effectually to provide for the public registry of all Marriages solemnized within this Province.

In the fifty third year of the Reign of King George the Third.

An Act in amendment of and in addition to an Act intituled *An Act for transferring to and vesting in the Crown such lands and tenements of any person or body politic on which it may be judged suitable and necessary to erect Fortifications, or which may be wanted for other uses of war and defence, and for ascertaining the value thereof, and making compensation for the same to the former owners.*

In the fifty fourth year of the Reign of King George the Third.

An Act for the preservation of Partridges.

An Act for the indemnification of Commissioners of Sewers.

An Act in addition to an Act intituled *An Act more effectually to provide for the public registering of all Marriages solemnized within this Province.*

In the fifty sixth year of the Reign of King George the Third.

An Act to provide for the purchase of a place for the residence and accommodation of the Governor or Commander in Chief of this Province.

An Act to explain and amend an Act intituled *An Act for erecting a Parish in the City of Saint John, and for incorporating the Rectors, Church Wardens, and Vestries of the Church of England in the several Parishes in this Province.*

An Act to exclude ignorant and unskilful persons from the practice of Physic and Surgery.

In the fourth year of the Reign of King George the Fourth.

An Act to amend an Act intituled *An Act subjecting Real Estates in the Province of New Brunswick to the payment of debts, and directing the Sheriff in his proceedings thereon.*

In the fifth year of the Reign of King George the Fourth.

An Act for the safe keeping of Lunatics whom it may be dangerous to permit to go at large within the Province.

An Act to alter and amend an Act intituled *An Act to repeal all the Laws now in force relating to the establishment, regulation, and improvement of the Great Roads of Communication through the Province, and to make more effectual provision for the same.*

In the sixth year of the Reign of King George the Fourth.

An Act to amend an Act intituled *An Act to provide for the better support of the Poor in certain Parishes in the County of Northumberland.*

An Act to authorize the Justices of the Peace in the County of York to make regulations respecting Carmen and Wagoners, and the lading and unlading of Vessels or Beats in the Parish of Fredericton.

An Act to encourage the employment of Apprentices in the art of Shipbuilding in this Province.

An Act to repeal all the Laws now in force for the organization and regulation of the Militia, and to make further provision for the same.

In the seventh year of the Reign of King George the Fourth.

An Act for further regulating Servants and Apprentices.

An Act to extend the power of the Firewards in the Parish of Fredericton, and to make further regulations for the better extinguishing of Fires that may happen in the said Parish.

An Act to repeal all the Laws now in force for the regulation of Seamen, and to make more effectual provision for that purpose.

In the eighth year of the Reign of King George the Fourth.

An Act in further amendment of an Act intituled *An Act subjecting Real Estates in the Province of New Brunswick to the payment of debts, and directing the Sheriff in his proceedings thereon.*

An Act to regulate the Herring Fishery in the Parishes of Grand Manan, West Isles, Campo Bello, Pennfield, and Saint George, in the County of Charlotte, and to provide for the inspection of Smoked Herrings in the said Parishes.

An Act to empower the Justices of the County of Charlotte to make regulations for driving Timber and Logs down the

Rivers Saint Croix, Magaguadavic, and Digdeguash, and their Branches.

An Act in amendment of the Act for the regulation of the Militia, so far as respects the City of Saint John.

An Act to repeal certain enactments relative to the Revenue of this Province, and also to make provisions for the better security of the said Revenue.

In the ninth year of the Reign of King George the Fourth.

An Act to regulate the manner of Driving and Riding upon the Public Roads.

An Act to alter and amend the Laws now in force for the regulation of the Militia.

An Act to regulate the trial of controverted Elections or returns of Members to serve in General Assembly.

In the tenth and eleventh years of the Reign of King George the Fourth.

An Act to regulate the Assize of Bread in the Parish of Portland.

An Act to repeal certain Acts relating to Commissioners of Sewers, and to make more effectual provisions in lieu thereof.

An Act for the relief of His Majesty's Roman Catholic subjects in this Province.

In the first year of the Reign of King William the Fourth.

An Act to amend an Act to regulate the Herring Fishery in the Parishes of Grand Manan, West Isles, Campo Bello, Pennfield, and Saint George, in the County of Charlotte, and to provide for the inspection of Smoked Herrings in the said Parishes.

An Act to repeal an Act passed in the fiftieth year of the Reign of His Majesty King George the Third, intituled *An Act to declare the qualifications of Church Wardens and Vestrymen in the several Parishes in this Province, and of the persons having voices in their election*, and to make other and more effectual enactments in lieu thereof.

An Act to regulate sales by Public Auction.

In the second year of the Reign of King William the Fourth.

An Act to improve the Law relating to Mortgages.

An Act further to amend the Laws regulating the qualifications of Church Wardens and Vestrymen in this Province.

In the third year of the Reign of King William the Fourth.

An Act to authorize the Justices of the Peace for the County of Northumberland to make rules and regulations respecting the Bass Fishery in that County.

An Act relating to Parish Schools:

In the fourth year of the Reign of King William the Fourth.

An Act to continue an Act passed in the ninth year of the Reign of His Majesty King George the Fourth, intituled *An Act to repeal all the Laws now in force for the appointment of Firewards, and for the better extinguishing of Fires in the Town of Saint Andrews, and to make regulations more suitable to the said Town, and for other purposes therein mentioned.*

An Act to continue and amend the Acts relating to the Herring Fisheries in the County of Charlotte.

An Act to amend an Act intituled *An Act to repeal certain Acts relating to Commissioners of Sewers, and to make more effectual provisions in lieu thereof.*

An Act in further amendment of an Act intituled *An Act subjecting Real Estates in the Province of New Brunswick to the payment of debts, and directing the Sheriff in his proceedings thereon.*

An Act to provide for the payment of Interest on Warrants which are not paid at the Treasury on demand.

An Act to regulate proceedings before Justices of the Peace in Civil Suits.

An Act to extend the privilege of solemnizing Marriage to all Ministers or Teachers of the several Religious Congregations in this Province.

An Act to authorize the sale or mortgage of the Estates of the persons found lunatic by inquisition in this Province; the granting of Leases of the same, and the conveyance of Estates held in trust by Lunatics or Idiots.

In the fifth year of the Reign of King William the Fourth.

An Act to continue an Act intituled *An Act to amend an Act intituled 'An Act to repeal an Act passed in the fiftieth year of*

the Reign of His Majesty King George the Third, intituled “An Act to declare the qualification of Church Wardens and Vestrymen in the several Parishes in this Province, and of the persons having voices in their election,” and to make more effectual enactments in lieu thereof, so far as relates to the Parish Church of Saint Andrews.’

An Act to continue an Act intituled *An Act to repeal all the Laws now in force for the regulation of Seamen, and to make more effectual provision for that purpose.*

An Act to remove doubts which may arise from the formation of two distinct Councils in this Province, relating to acts required to be done by His Majesty in Council.

An Act to declare all Acts of Assembly to be Public Acts.

An Act to regulate the inspection of Dry and Pickled Fish for home consumption and for exportation.

An Act to provide for the services of the Clerk of the Circuit Courts in this Province.

In the sixth year of the Reign of King William the Fourth.

An Act to continue an Act intituled *An Act to regulate the Assize of Bread in the Towns of Newcastle and Chatham, in the County of Northumberland.*

An Act relating to Corporations.

An Act to regulate the fencing, occupation, and grazing of the several Marshes, Low Lands, and Meadows in the County of Westmorland.

An Act to prescribe certain general regulations in respect to Corporations.

An Act to regulate Pawn Brokers within this Province.

An Act for the more effectually securing the liberty of the subject by enforcing the execution of Writs of Habeas Corpus.

An Act for the limitation of Actions and Suits relating to Real Property, and for simplifying the remedies for trying the rights thereto.

An Act in addition to an Act intituled *An Act to repeal all the Laws now in force for the regulation of Seamen, and to make more effectual provisions for that purpose.*

An Act for rendering a writing necessary to the validity of certain promises and engagements.

An Act relating to the limitation of Personal Actions.

An Act for the quiet of His Majesty's Subjects by limiting Actions and Suits of the Crown relating to Lands in this Province.

In the seventh year of the Reign of King William the Fourth.

An Act relating to Bank Notes.

An Act to make provision for the payment of a portion of the expenses of maintaining certain Light Houses and Establishments in the Gulf of Saint Lawrence.

In the eighth year of the Reign of King William the Fourth.

An Act for the support of the Civil Government in this Province.

An Act to restrain the provisions of the fifth Section of an Act intituled *An Act for the support of the Civil Government in this Province*, and to establish sundry regulations for the future disposal of Crown Lands and Timber in certain cases.

An Act to prevent the issue of private Bank Notes in this Province.

An Act to alter and amend an Act intituled *An Act to repeal all the Laws now in force for regulating, laying out, and repairing Highways and Roads, and for appointing Commissioners and Surveyors of Highways in the severa Towns and Parishes in this Province, and to make more effectual provisions for the same*, so far as the same relates to the Parish of Portland in the County of Saint John.

An Act to appropriate a part of the Emigrant Fund for the purposes therein mentioned.

An Act to alter and amend an Act intituled *An Act to provide for opening and repairing Roads and erecting Bridges throughout the Province.*

In the first year of the Reign of Queen Victoria.

An Act further to amend the Acts relating to the collection of the Revenue of the Province.

An Act for the amendment of the Law with respect to Wills.

An Act in addition to and explanatory of an Act intituled *An Act to regulate proceedings before Justices of the Peace in Civil Suits.*

An Act in addition to the Acts regulating the sale of Real Estate seized and taken in Execution.

An Act more effectually to prevent the abuse of Banking privileges.

An Act to amend the Laws relating to the solemnizing of Marriage.

In the second year of the Reign of Queen Victoria.

An Act to amend the Laws now in force relating to the Militia in this Province.

An Act in further amendment of the Criminal Law.

An Act to provide for the summary punishment of persons committing trespasses upon Square Timber and other Lumber.

An Act to alter and amend an Act intituled *An Act to provide for the greater safety of Passengers on board Steam Boats.*

In the third year of the Reign of Queen Victoria.

An Act to amend an Act intituled *An Act to repeal all the Laws now in force relating to Parish Schools, and to make other provisions respecting the same.*

An Act in addition to the Act providing for the greater safety of Passengers on board Steam Boats.

An Act in addition to the Acts now in force relating to the Commissioners of Sewers.

An Act in amendment of the Law relating to Wills, Legacies, Executors, and Administrators, and for the settlement and distribution of the Estates of Intestates.

An Act relating to wrecked Property.

An Act to provide for the more effectual prevention of trespasses, and protection of Timber growing on Crown Lands within this Province.

In the fourth year of the Reign of Queen Victoria.

An Act relating to the office of Coroner in this Province.

An Act to amend the Act in amendment of the Law relating to Wills, Legacies, Executors, and Administrators, and for the settlement and distribution of the Estates of Intestates.

An Act to establish a Provincial House of Correction.

In the fifth year of the Reign of Queen Victoria.

An Act to extend the provisions of an Act intituled *An Act to repeal the Laws now in force for appointing Firewards, and*

for the better extinguishing of Fires in the Town of Saint Andrews, and to make regulations more suitable to the said Town, and for other purposes therein mentioned, to the Towns of Dalhousie and Campbelltown, in the County of Restigouche.

An Act to enable the Supreme Court to give relief against adverse claims made upon persons having no interest in such claims.

An Act to make further provision relating to the Provincial House of Correction, and to give it the name of the Provincial Penitentiary.

In the sixth year of the Reign of Queen Victoria.

An Act to authorize the Justices of the Peace for the County of York to regulate the Assize of Bread in the Town of Fredericton.

An Act to amend the Act to regulate proceedings before Justices of the Peace in Civil Suits.

An Act to enlarge, confirm, and establish the bounds of the Provincial Penitentiary.

An Act to authorize the Justices of the Peace in and for the County of Carleton to extend the Gaol Limits of the said County.

An Act relating to the Clerk of the Pleas.

In the seventh year of the Reign of Queen Victoria.

An Act to amend an Act intituled *An Act to regulate Vessels arriving from the United Kingdom with Passengers and Emigrants.*

An Act relating to the collection of Duty on Timber and other Lumber.

An Act to facilitate the collection and recovery of small debts due to the Crown, arising from the sale of Crown Lands and Timber.

An Act further to amend the law relating to Wills, Legacies, Executors, and Administrators, and for the settlement and distribution of the Estates of Intestates.

An Act to regulate the management and disposal of the Indian Reserves in this Province.

An Act to enable Her Majesty's Government to carry into effect, within the Province, the provisions of the Fourth Article of the Treaty of Washington.

In the eighth year of the Reign of Queen Victoria.

An Act relating to the privilege of solemnizing Marriage.

An Act in further addition to the Acts regulating the sale of Real Estates seized and taken in Execution.

An Act to amend the Act to regulate Sales by Public Auction.

An Act to extend the provisions of an Act intituled *An Act to repeal the Laws now in force for appointing Firewards and for the better extinguishing of Fires in the Town of Saint Andrews, and to make regulations more suitable to the said Town, and for other purposes therein mentioned*, to the Town of Bathurst, in the County of Gloucester.

An Act to authorize a return of Duties in certain cases.

An Act relating to certain Fees.

In the ninth year of the Reign of Queen Victoria.

An Act to provide for the management of the temporalities of the Church of England in this Province, in certain cases.

An Act to repeal an Act intituled *An Act in addition to an Act for erecting a Parish in the City of Saint John, and incorporating the Rector, Church Wardens, and Vestry of the Church of England in the several Parishes in this Province*, and to make other provisions in lieu thereof.

An Act to authorize the granting of Mill Reserves in certain cases.

In the tenth year of the Reign of Queen Victoria.

An Act to prevent the free navigation of the internal waters of the Province from being impeded by any Railway works.

An Act to consolidate and amend the Laws relating to the Registry of Deeds and other Instruments.

An Act to appropriate a part of the Light House Fund for a particular service.

An Act to alter and amend the Act to regulate Sales by Public Auction.

An Act further to amend the law regulating proceedings before Justices of the Peace in Civil Suits.

An Act to prevent injuries on Lands in the vicinity of the River Saint John, by persons conveying Timber, Logs, or Lumber down the same.

An Act for the regulation of Benefit Building Societies.

In the eleventh year of the Reign of Queen Victoria.

An Act relating to the Trade between the British North American Possessions.

An Act to amend the Law relating to the Registry of Deeds and other Instruments.

An Act to regulate the measurement of Firewood and Bark.

An Act in addition to the Acts relating to the Provincial Penitentiary.

An Act in addition to an Act intituled *An Act to extend the privilege of solemnizing Marriage to all Ministers or Teachers of the several Religious Congregations in this Province.*

An Act relating to Immigration and the care and safe keeping of the Children and Property of deceased Emigrants.

An Act to regulate the importation of Books, and to protect the British Author.

In the twelfth year of the Reign of Queen Victoria.

An Act relating to the Trade between the British North American Possessions.

An Act to facilitate the sale and improvement of Crown Lands in certain cases.

An Act relating to Salt Mines in this Province.

An Act to authorize the commutation of Debts due the Crown by Settlers in certain cases for work on the Public Roads.

An Act to continue the Act to provide for the payment of Interest on Warrants.

An Act to alter and amend an Act intituled *An Act relating to the Clerk of the Pleas.*

An Act to provide for the management of the Provincial Lunatic Asylum.

An Act to consolidate and amend the several Acts of Assembly relating to the Criminal Law of this Province, so far as relates to the definition of certain indictable offences, and the punishment thereof.

An Act to consolidate and improve the Laws relative to the administration of Criminal Justice.

An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions, within this Province, with respect to Summary Convictions and Orders.

An Act for the encouragement of Agriculture.

An Act for the adjustment of certain outstanding Bonds to the Crown.

An Act in further amendment of the Law relating to Registry of Deeds and other Instruments.

An Act to amend an Act relating to Insolvent Confined Debtors.

An Act to restrain the holding of Parishes in plurality by the Clergy of the Church of England in this Province.

An Act in amendment of an Act intituled *An Act relating to Wrecked Property.*

An Act for regulating the shipping of Seamen at the Port of Saint John.

An Act for the appointment of Commissioners of Sewers for the Parish of Sackville, in the County of Westmorland, and to divide certain Marsh Lands in the said Parish into several Bodies or Districts.

An Act in amendment of and in addition to an Act intituled *An Act in addition to an Act intituled ‘An Act to extend the privilege of solemnizing Marriage to all the Ministers or Teachers of the several Religious Congregations in this Province.’*

An Act for the adjustment of claims of certain purchasers of Crown Lands.

An Act for the reduction of Judicial Salaries in this Province.

In the thirteenth year of the Reign of Queen Victoria.

An Act relating to the Trade between the British North American Possessions.

An Act to regulate Vessels arriving from Europe with Passengers.

An Act relating to Highways.

An Act for the better prevention of trespasses on Crown Lands and private property.

An Act to consolidate the Laws relating to Buoys and Beacons.

An Act to continue an Act to regulate the survey and exportation of Lumber.

An Act to continue and amend an Act for the relief of old Soldiers of the Revolutionary War, and their Widows.

An Act to continue an Act to prevent injuries on Lands in the vicinity of the River Saint John by persons conveying Timber, Logs, or Lumber down the same.

An Act to make perpetual an Act to regulate Pawn Brokers within this Province.

An Act to make perpetual an Act to protect the grounds and enclosures around the Province Buildings in Fredericton.

An Act to make perpetual the Act imposing a Duty on Rum and other Liquors distilled within the Province.

An Act relating to the Trade between this Province and the British West Indies.

An Act relating to the Trade between this Province and the United States of America.

An Act to provide for the greater safety of Passengers on board of Steam Boats.

An Act to continue an Act to make provision for Seamen shipped on board of vessels belonging to this Province.

An Act to continue several Acts providing for the more efficient inspection of Flour and Meal.

An Act to limit the operations of an Act intituled *An Act for the adjustment of claims of certain purchasers of Crown Lands.*

An Act to consolidate and amend the Laws relating to the local government of Counties, Towns, and Parishes in this Province.

An Act to consolidate and amend the Laws relating to Insolvent Confined Debtors.

An Act for the punishment of persons guilty of injuring Electric Telegraphs.

An Act to amend an Act intituled *An Act to provide for the summary punishment of persons committing trespasses upon Square Timber and other Lumber.*

An Act to continue and amend an Act intituled *An Act relating to the collection of Duty on Timber and other Lumber.*

An Act to continue an Act to authorize the granting of Mill Reserves in certain cases.

An Act relating to the Naturalization of Aliens in this Province.

An Act to prevent desertion from Her Majesty's Forces.

An Act to consolidate and amend the Laws relating to sick

and disabled Seamen belonging to this Province, not being Paupers.

An Act for the establishment and regulation of Inland Posts within this Province.

An Act to consolidate and amend the Laws relating to the office of Sheriff.

An Act to consolidate all the Laws now in force for the division of the Province into Counties, Towns, and Parishes.

An Act to consolidate and amend the Laws relating to the Great Roads of Communication throughout this Province.

An Act to consolidate and amend the Laws relating to Landlord and Tenant, and regulating proceedings in Replevin.

An Act to consolidate and amend the Laws relating to absconding, concealed, and absent Debtors.

An Act to authorize limited Partnerships in this Province.

An Act to remove doubts relating to Marriages in certain cases.

An Act to prevent the destruction of Moose in this Province.

An Act to establish a Board of Health in the City and County of Saint John.

An Act for the more effective Auditing of Public Accounts.

In the fourteenth year of the Reign of Queen Victoria.

An Act in addition to the Law relating to Inland Posts.

An Act to continue an Act to authorize the commutation of Debts due the Crown by Settlers in certain cases for work on the Public Roads.

An Act imposing a Duty on Haematac or Juniper Knees, Roots, and Foothooks, exported from this Province.

An Act in addition to and in amendment of the Acts now in force for the collection and protection of the Revenue of this Province.

An Act to consolidate and amend the Laws providing for the maintenance of Light Houses in the Bay of Fundy.

An Act for shortening the language used in Acts of Assembly in this Province.

An Act to amend the Law relative to the administration of Criminal Justice.

An Act relative to Recognizances for the appearance of persons on criminal charges.

An Act relating to the Registry of Decrees of Partition made in the Court of Chancery.

An Act to secure to married Women real and personal Property held in their own right.

An Act to provide for the transportation of Newspapers and Tracts through this Province without any imposition of Postage.

An Act to revive and continue an Act to alter and amend the Act to regulate Sales by Public Auction.

An Act to revive and continue an Act to provide for the more effectual prevention of trespasses, and protection of Timber growing on the Crown Lands within this Province.

An Act to amend an Act to consolidate and amend the Laws relating to the local government of Counties, Towns, and Parishes.

An Act for the protection and regulation of the Sea and River Fisheries of this Province.

An Act to establish the Road leading from the Baptist Meeting House in the Parish of Upham, in King's County, to the Church in Sussex Vale, as one of the Great Roads of communication.

An Act to establish the Road leading from the Great Road running from Fredericton to the Finger Board, at or near James Tilley's in the Parish of Sheffield, County of Sunbury, to the Great Road running from Fredericton to the Bend of Petitcodiac, as one of the Great Roads of communication.

An Act to establish the Road from Lower Trout Brook Bridge, on the Great Road between Saint Andrews and Fredericton, to the Town of Magaguadavic, as one of the Great Roads of communication.

An Act in further amendment of an Act intituled *An Act for granting Patents for useful Inventions*.

An Act to alter and amend the fifth Section of an Act intituled *An Act to consolidate the Laws relating to Buoys and Beacons*, so far as the same relates to the County of Restigouche.

An Act to provide for the laying down of Common Sewers in the City of Saint John.

An Act to extend the privilege of solemnizing Marriage to all Ministers or Teachers of the several Religious Congregations in this Province.

An Act to provide for the establishment of Municipal Authorities in this Province.

An Act to suspend the operation of certain provisions of the Militia Law.

In the fifteenth year of the Reign of Queen Victoria.

An Act to continue an Act for the better prevention of trespasses on Crown Lands and Private Property.

An Act to amend the Law relating to Lunatics and Insane Persons.

An Act in further amendment of the Law relating to the Registry of Deeds and other Instruments.

An Act to annex the Territory awarded to this Province by the New Brunswick and Canadian Arbitrators, in the recent settlement of the Boundary Question between the Provinces of New Brunswick and Canada, to the Counties of Victoria and Restigouche, and to alter the present Boundary Line between those Counties.

An Act to establish the Road leading from Edmundston, in the Parish of Madawaska, in the County of Victoria, to the River Saint Francis, as one of the Great Roads of communication.

An Act to consolidate and amend the Laws relating to the collection and protection of the Revenue of this Province.

An Act in amendment of and in addition to the Act relating to the definition of offences, and the punishment thereof.

An Act to continue an Act to amend an Act intituled *An Act to provide for the more summary punishment of persons committing trespasses upon Square Timber and other Lumber.*

An Act to amend an Act intituled *An Act to consolidate and amend the Laws relating to sick and disabled Seamen belonging to this Province, not being Paupers.*

An Act to establish the Road leading from the Great Road running from Woodstock to the Grand Falls, at or near John Boyer's, in the Parish of Simonds, County of Carleton, to the American Line on the Big Presqu'ile, as one of the Great Roads of communication.

An Act to erect part of the Parish of Andover, in the County of Victoria, into a separate Parish.

An Act for the erection of a new Parish in Queen's County.

An Act for the better establishment and maintenance of the Parish Schools.

An Act respecting Joint Tenancy.

An Act to authorize the Lieutenant Governor in Council to grant Lands upon equitable terms to persons now occupying the same under special circumstances.

An Act further to continue the Act to provide for the services of the Clerk of the Circuit Courts in this Province.

An Act to provide for insuring the Legislative Library against loss or damage by Fire.

An Act in amendment of an Act intituled *An Act to consolidate and amend the Laws relating to the local government of Counties, Towns, and Parishes in this Province.*

An Act to amend the Law relating to the local government of Counties, Towns, and Parishes in this Province.

An Act to continue an Act intituled *An Act to regulate the inspection of Dry and Pickled Fish for home consumption, and for exportation.*

An Act in amendment of the Act for the protection and regulation of the Sea and River Fisheries of this Province.

An Act to amend an Act intituled *An Act for the encouragement of Agriculture.*

An Act to amend the Act for the establishment of Municipal Authorities, so far as regards the County of Carleton.

An Act to simplify the service of Process against co-partners in trade, in proceedings before Justices of the Peace, and in the City Court of Saint John.

An Act to prevent the placing and leaving of Poison for the destruction of animals on private property and on the Public Roads and Streets in the City and County of Saint John.

An Act to continue an Act for regulating the shipping of Seamen at the Port of Saint John.

An Act to amend an Act intituled *An Act relating to the appointment of Commissioners of Sewers in the Counties of Westmorland and Albert.*

In the sixteenth year of the Reign of Queen Victoria.

An Act in amendment of an Act to regulate Vessels arriving from Europe with Passengers.

An Act to alter and amend the Act to consolidate and amend the Laws relating to sick and disabled Seamen belonging to this Province, not being Paupers, so far as relates to the County of Gloucester.

An Act to provide against injuries to the Intervale banks of the River Saint John.

An Act authorizing the appointment of Commissioners of Sewers in Queen's County.

An Act to unite a portion of a School District in the Parish of Saint David to the Parish of Saint James, in the County of Charlotte.

An Act to repeal an Act to amend an Act to consolidate and amend the Laws relative to the local government of Counties, Towns, and Parishes, so far as relates to the County of Victoria.

An Act relating to the escheating of Mining Licences or Leases, and also of Mill Reserves, and recovery of Crown Debts.

An Act further to continue an Act to authorize the commutation of debts due the Crown by Settlers in certain cases, for work on the Public Roads.

An Act regulating Weights and Measures.

An Act in amendment of the Law relating to Inland Posts.

An Act to regulate the granting of Patents for useful Inventions.

An Act to amend an Act regulating the shipping of Seamen at the Port of Saint John, and extend the provisions thereof to other Ports and places being Sea Ports in this Province.

An Act to revive and amend an Act to regulate the Herring Fishery in the Parishes of Grand Manan, West Isles, Campo Bello, Pennfield, and Saint George, in the County of Charlotte.

An Act to erect a part of the Parish of Woodstock, in the County of Carleton, into a separate and distinct Town or Parish.

An Act to revive and continue an Act for the appointment of Firewards in the Parish of Woodstock.

An Act in addition to an Act intituled *An Act to consolidate and amend the Laws relating to the local government of Counties, Towns, and Parishes in this Province.*

An Act in addition to and in amendment of the Act to consolidate and amend the Laws relating to the local government of Counties, Towns, and Parishes in this Province.

CHAPTER 163.

OF FEES.

Section.

1. What fees to be taken.

Table of Fees.

1. The Fees in the following Table shall be the only Fees to be taken for the several services therein mentioned.

TABLE OF FEES.

First.—SHERIFFS' FEES.

Serving every writ of mesne process,	.	.	.	£0	2	6
Arrest of any defendant where the sum exceeds £50, 5s. additional: where it exceeds £100, 7s. 6d. additional: where it exceeds £250, 10s. additional.	.	.	.	0	0	9
Affidavit of service, and swearing,	.	.	.	0	5	0
Every return,	.	.	.	0	4	0
Ditto writ of possession or restitution, or putting a party in possession of real estate, if required, after the sale, each	.	.	.	0	10	0
Serving writ of attachment,	.	.	.	0	5	0
Ditto writ of ne exeat,	.	.	.	0	4	0
Ditto <i>Sci. fa.</i>	.	.	.	0	4	0
On a habeas corpus,	.	.	.	0	6	8
Travelling, on all processes from the Court House, 3d. per mile, going and returning: levying and paying all moneys on executions to £40, 1s. per £1: above that sum, and not exceeding £100, 6d. per £1: above £100, 4d. per £1. If compromised after levy or arrest, the same rate, to the value of the compromise.	.	.	.	0	10	0
Drawing bail, limit, or replevin bond, each	.	.	.	0	10	0
Summoning jury on writ of inquiry,	.	.	.	0	10	0
Attending on taking inquisition,	.	.	.	0	10	0
On every cause tried,	.	.	.	0	2	6
Attending a jury of view,	.	.	.	0	10	0
Summoning jury on forcible entry, and detainer of extent,	.	.	.	0	10	0
For entering the writ of replevin, and endorsing the time of receiving the same,	.	.	.	0	1	0
Mileage in travelling to execute the same, to be computed from the Court House to the place where goods may be found and back, each mile three pence.	.	.	.			

For executing the replevin,	£0	6	8
For making a return, if common,	0	1	0
For making a return, if special,	0	2	6
For entering the writ de proprietate probanda, and endorsing the time of receiving the same,	0	1	0
For mileage, to be computed as above, each mile three pence.			
For summoning the jury,	0	5	0
For the constable,	0	2	6
For swearing the jury,	0	2	6
For swearing each witness, or reading a paper in evidence,	0	0	6
For attending the inquest,	1	0	0
For certificate of verdict, and returning the writ de proprietate probanda,	0	5	0
For an order to restore the goods and chattels,	0	1	0

*Second.—FEES IN THE COURTS OF PROBATE.**Judge.*

Examining petition for letters of administration, or probate of will, letters of guardianship, or other special matter, and order thereon,	£0	6	8
Every fiat for appraisers or bondsmen,	0	2	6
Any other order,	0	2	6
Certificate endorsed on will of the proof thereof,	0	6	8
Certificate endorsed on will of oath to executors,	0	3	4
Whole fees, where estate does not exceed £100, and no contest,	1	0	0
Ditto, where estate does not exceed £200, and no contest,	1	10	0
Licence to sell real estate, if not over £200, and no contest, for all proceedings thereon,	1	0	0
For probate or administration, where estate does not exceed £300,	0	16	8
Above £300, and not exceeding £1000,	1	3	4
Above £1000,	2	6	8
Signing warrant of appraisement,	0	2	0
Citation, and order for same,	0	3	4
Subpœna, attachment, execution, or other process, including order for same,	0	2	0
Letters ad colligendum, or of guardianship,	0	10	0
Sentence in ordinary cases of licence to sell real estate, passing accounts, or of distribution, &c.	1	3	4
Sentence for probate of a will, letters of administra- tion, or on granting licence to sell real estate, passing accounts, or distribution, &c., where there is a contest,	2	6	8

Each day engaged beyond the first,	£1	3	4
Transmitting appeal, with reasons,	1	3	4
Every folio above 40, 6d. per folio.			
Taking testimony in writing, each witness, if not exceeding 3 folios,	0	3	4
Every folio above,	0	1	0
Examining and taxing costs,	0	2	6
Every oath,	0	1	0

Registrar.

Filing petition for probate or administration, letters of guardianship, or other special matter, and order of Judge thereon,	0	1	0
Entry of order for probate or letters of administration, and every other special order,	0	2	6
The whole fees where estate does not exceed £100, and no contest,	1	0	0
Ditto where it does not exceed £200, and no contest,	1	10	0
Licence or order to sell real estate, if not over £200, and no contest, for all proceedings therein,	1	0	0
Probate or administration, estate under £300,	0	15	0
Over £300 and not exceeding £1000,	1	0	0
Above £1000,	1	6	8
Copy of will annexed to probate, per folio,	0	1	0
Registry of will in book, per folio,	0	0	9
Bond of administration, on sale of real estate, or for payment of costs on appeal,	0	6	8
Any contested case, attending with papers, &c., each day, if allowed by the Judge, not exceeding	0	10	0
Preparing every citation, attachment, subpœna, warrant of appraisement, or other process, including seal, (the names of all the witnesses may be included in one subpœna),	0	2	6
Preparing any necessary affidavit,	0	1	0
Filing every paper, except vouchers filed with accounts,	0	0	6
Filing every account with vouchers,	0	3	4
All copies of papers, for first folio,	0	1	0
Every additional folio,	0	0	6
Certificate under seal, including seal,	0	5	0
Entering every order or decree in the registry book, per folio,	0	0	9
For inspection of original will, and attending the party inspecting,	0	2	0

Every search,	.	.	.	.	.	£0	1	0
Entry of caveat or appeal,	.	.	.	.	.	0	3	4
Certificate of licence for sale of real estate,	.	.	.	.	.	0	5	0

Proctor and Advocate.

Taking instructions to commence, or defend any proceeding, or obtain any order,	.	.	.	.	.	0	15	0
Drawing every petition, allegation, bill of costs, or paper, per folio,	.	.	.	.	.	0	1	6
Every copy, per folio,	.	.	.	.	.	0	0	6
Every necessary attendance on the Surrogate,	.	.	.	.	.	0	6	8
Every hearing or argument before the Surrogate, not less than half a guinea nor more than three guineas, at the discretion of the Surrogate.	.	.	.	.	.
Serving any notice or other paper, on each person,	.	.	.	.	.	0	1	0
Every necessary attendance on the Registrar,	.	.	.	.	.	0	3	4
Every subpoena ticket,	.	.	.	.	.	0	1	0
In contested cases a reasonable fee for every day's attendance, in the discretion of the Surrogate.	.	.	.	.	.

Sheriff or other Ministerial Officer.

Serving citation, or other process, except subpoenas, on each person,	.	.	.	.	.	0	2	6
Posting up same in three public places,	.	.	.	.	.	0	5	0
Serving subpoena on each person,	.	.	.	.	.	0	1	0
Mileage, as in other Courts.	.	.	.	.	.

Third.—FEES OF THE REGISTRAR OF DEEDS.

Every search, certificate, registry of memorial of judgment, or entry of satisfaction of judgment, each	.	.	.	.	.	£0	1	0
And no further sum to be charged for searches made the same day relating to one title than five shillings ; and the party searching shall only pay for looking at deeds or instruments relating to the title in question.	.	.	.	.	.
Taking acknowledgment, or proof, as the case may be, and certificate thereof endorsed,	.	.	.	.	.	0	3	0
When a feme covert acknowledges at the same time with her husband, or several persons acknowledge or prove at the same time, and are included in the same certificate, then a further sum of one shilling for each person.	.	.	.	.	.

Preparing discharge of mortgage on the margin of the registry, and attesting the signature of mortgagee, &c., thereto,	£0 3 0
Registry of every conveyance or instrument, and certificate of acknowledgment, or proof thereof, from the records, for every 100 words,	0 1 0
All copies from the record,	0 0 6

Justice of Peace, or other authority.

Taking acknowledgment or proof, and certificate
thereof, the same as provided for the Registrar.

Witness.

Attending any Court under subpœna, the same as
allowed between party and party in such Court.

Fourth.—FEES ON PATENTS.

If a British subject, whether inventor or assignee in the Province, or of any patent from abroad, in full for patent, exclusive of recording assign- ment,	£5 7 6
If a foreigner, whether inventor or assignee, . . .	10 0 0
Fee on entering a caveat,	5 0 0
Fee by application under 23rd Section of Chapter 118, Title XXX, surplus (if any) to be returned to applicant,	25 0 0
Ditto under 24th Section,	20 0 0
Ditto under 26th Section,	20 0 0
Ditto under 16th Section,	20 0 0
Fee for adding subsequent improvement,	4 0 0
Fee on re-issuing patent on surrender of old patent, .	4 0 0
Fee on application for a design,	3 0 0
Fee on disclaimer,	3 0 0
For copies of any papers on file, (not including drawings), for every one hundred words,	0 2 0
For recording all assignments, powers of attorney, licences, or other papers, not exceeding three hundred words,	0 2 0
And for every additional one hundred words,	0 1 0
Copies of drawings and models to be matter of agreement.	
To the Attorney General, or other Law Officer of the Crown, for drawing every patent, from £2 6 8 to £3 10s., according to length and circumstances.	

Fifth.—FEES ON DISTRESS FOR RENT.

Warrant of Distress,	.	.	.	.	£0	1	0
Bailiff executing warrant, (exclusive of mileage,)					0	2	6
Mileage on distress, 3d. per mile going and returning, to be calculated from the residence of the Bailiff.							
Preparing inventory and notice,					0	5	6
Swearing appraisers,					0	1	0
Endorsing the same on inventory,					0	0	6
Appraisers, each,					0	2	0
Drawing appraisalment,					0	1	0
On sale of goods distrained, 4d. per £1 on rent due.							
Bailiff or other officer, for taking charge of goods,					0	2	6

*Sixth.—FEES IN CIVIL SUITS BEFORE JUSTICES.**Justice.*

Summons,						£0	0	9
Each copy of summons,						0	0	3
Capias,						0	0	9
Each copy of capias,						0	0	3
Affidavit whereupon to grant capias, and swearing,						0	1	0
Appointment of next friend or guardian,						0	0	6
A subpoena,						0	0	4
Each copy or ticket thereof,						0	0	2
Every adjournment made at the instance of either party,						0	0	6
Trial and judgment,						0	1	3
Swearing each witness and constable,						0	0	3
Swearing jury,						0	0	6
Venire,						0	0	6
Copies of particulars, and all other papers which may be required from a Justice, per 100 words,						0	0	6
Return to Judge's order for removal,						0	5	0
Taking bail, and justifying,						0	1	0
Taking deposit,						0	1	0
Execution,						0	0	9
If against joint debtors requiring any special endorsement,						0	1	0
Certificate to suspend execution,						0	0	3
Judgment by default, and assessing damages,						0	1	0
On money paid into Court by a defendant pending a suit, before trial or judgment, two and a half per cent., or six pence in the pound, but no percentage to be charged for receiving money on deposit in lieu of bail, or upon execution.								

Affidavit of service of summons, and swearing,	. £0	0	6	
Preparing affidavit to be taken by Attorney or agent, and swearing same,	0	1	0
The same fee to be allowed to any other requisite affidavit not specially provided for, and swearing.				

Constable.

For serving a summons, and making a return thereto,	. . . . .	0	0	6
If served by any other person, no fee therefor.				
For serving a capias, and making return thereto,	. . . . .	0	1	0
Taking bail if entered into before constable,	. . . . .	0	0	3
Return of non est,	. . . . .	0	0	3
Serving a warrant to commit,	. . . . .	0	1	0
Summoning a jury,	. . . . .	0	1	0
Attending at the trial,	. . . . .	0	0	3
Summoning each additional juror, if there are not sufficient bye-standers,	. . . . .	0	0	3
Serving a subpœna on each witness,	. . . . .	0	1	0
Serving an execution on the goods, for the first pound or less,	. . . . .	0	1	0
Ditto, ditto, all above one pound, for each pound,	. . . . .	0	0	6
Serving an execution on the body,	. . . . .	0	1	0
If the money is paid, for each pound,	. . . . .	0	0	6
Every mile (when the distance is more than one mile) going from constable's residence to place of service when serving a summons, capias, or execution ; bringing defendant before Justice, from place of service to Justice's residence ; taking defendant to gaol ; the constable to be allowed for all such necessary travelling both going and returning,	. . . . .	0	0	3

Witness.

To every necessary witness for each day's attendance,	. . . . .	0	1	3
Travelling, if over one mile, going and returning, each mile,	0	0	3

Jurors.

Each juror who shall be sworn in a cause, if verdict be given,	0	1	0
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Attorney on Review.

Drawing every affidavit or other paper, per folio of one hundred words,	£0	1	0
Copy of the same, per folio,	0	0	6
Every order for hearing,	0	6	8
Attendance on Judge for his allowance,	0	3	4
Every other necessary attendance,	0	3	4
Every argument before the Judge, not less than 11s. 8d., and not exceeding £2 6 8, at the Judge's discretion.			
Preparing bond,	0	5	0
Every attachment,	0	5	0
Every notice or summons, and service on the adverse party,	0	2	0

*Seventh.—FEES ON SUMMARY CONVICTIONS BEFORE POLICE
AND OTHER JUSTICES.**Justice.*

Information or complaint in writing,	£0	1	0
Every summons,	0	1	0
Warrant to arrest,	0	1	6
Taking recognizance, each party,	0	0	6
Entering up recognizance,	0	1	0
Warrant of distress,	0	2	0
Commitment,	0	1	0
Administering an oath,	0	0	6
Drawing an affidavit,	0	1	0
First folio of 100 words of the minutes in writing on a trial,	0	1	0
Every additional folio,	0	0	6
Writ of replevin,	0	1	6
Subpoena,	0	0	6
Copy of writ, summons, or other necessary paper, half the allowance for the original, trial on con- viction,	0	3	0

Clerk of the Peace.

Drawing every indictment, and engrossing, not exceeding five folios,	0	2	6
Copies of all indictments, depositions, and all other papers delivered upon application of defendant, and collating, per folio,	0	0	6
Motions for trial, minuting the same,	0	1	0
Calling and swearing jury,	0	1	6
Swearing witness, each	0	0	6

Taking, respiting, or discharging every recognizance, and discharging a prisoner by proclamation,	£0	1	0
Preparing, signing, and sealing each subpoena or bench warrant,	0	2	0
Every subpoena ticket,	0	0	6
Every certificate under seal,	0	2	0
Entering appearance of defendant upon indictment,	0	1	0
Entering judgment of Court, each person,	0	1	0
Trial and judgment,	0	3	6
Every warrant of assessment, and seal,	0	2	6
Drawing every order, rule, ordinance, or regulation of the Sessions, per folio,	0	0	6
Calling Special Sessions, and preparing notices to Justices,	0	10	0
Copying jury lists, Parish lists, and returns from Sessions, and making copies of the same, when necessary, per folio,	0	0	6
Assisting on trial before Sessions, to be allowed by the presiding Justice, not less than half a guinea, and not exceeding one guinea.			
Any other service not provided for, to be allowed in the discretion of the Justices in Sessions.			

Constable.

Serving summons, and making return thereon,	0	1	0
Serving warrant to arrest,	0	1	6
Taking replevin bond,	0	2	0
Serving warrant of distress,	0	1	0
And poundage, 1s. per £1.			
Executing warrant of imprisonment,	0	2	0
Serving subpoena and return,	0	1	0
In addition to those fees, to have 3d. per mile going and coming, to be charged according to the number of miles actually travelled.			

Eighth.—FEES TO CORONERS.

To every Coroner for taking and returning an inquisition, recognizance, swearing jurors, binding witnesses, and issuing all subpoenas and warrants consequent thereon, the fee or remuneration shall be	£2	0	0
Travelling from his residence to the place where the body may be, and returning, per mile,	0	0	6
Printer's account for printing blank forms of inquisition, recognizances, subpoenas, &c. to be repaid the Coroner.			

Surgeon or Physician.

To every legally qualified medical practitioner for attending to give evidence under the provisions of this Chapter, at any inquest whereat no post mortem examination has been made,	£1 0 0
For making the post mortem examination, and attending to give evidence,	2 0 0

Jury.

To the jury for attending and making inquisition, each juror,	0 2 6
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Constable.

To the constable for summoning the jury on inquest,	0 5 0
For attendance,	0 2 6
Serving any order or permissive warrant, or sub-pœna, each	0 1 0
If required to attend at the burial,	0 2 6

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ERRATA.

In Part I, Title III, Chapter 16, Section 7 of Headings, for *Time* read "Fine."

In Part III, Title XXXVI, Chapter 136, page 360, Form (E), third line, for *cash* read "costs."

In Part III, Title XXXVII, Chapter 137, Section 44 of Headings, for *Renewal* read "Review."

In Part IV, Title XL, Chapter 160, Section 13, page 448, for *Title*, in two places, read "Part."

In Part III, Title XXXVII, Chapter 138, page 382, for *Summary Convictions*, read "Summary Convictions before Justices."

In Title XLI, Chapter 161, page 464, Section 32, after "Summary Convictions before Justices," dele *out of Sessions*.

